



Australian Government
**Office of the Australian
Information Commissioner**

Office of the Australian Information Commissioner

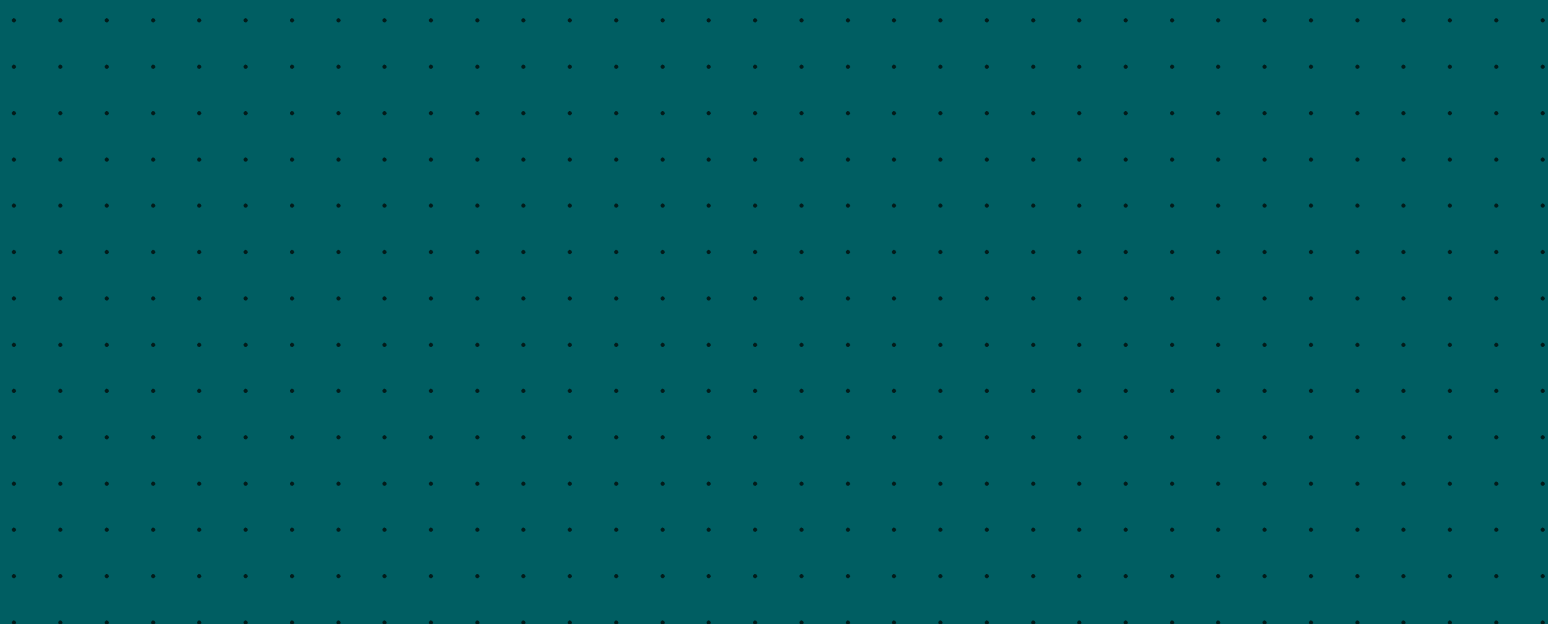
Annual Report 2019–20



OAIC

Office of the Australian Information Commissioner

Annual Report 2019–20



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The Hon. Christian Porter MP

Attorney-General
Parliament House
Canberra ACT 2600

Dear Attorney

I am pleased to provide the Office of the Australian Information Commissioner's (OAIC's) Annual Report 2019–20 for the year ending 30 June 2020.

This report has been prepared for the purposes of s 46 of the *Public Governance, Performance and Accountability Act 2013* (PGPA Act), which requires that I prepare and provide an annual report to you for presentation to the Parliament.

Section 30 of the *Australian Information Commissioner Act 2010* (AIC Act) also requires the Information Commissioner to prepare an annual report on the OAIC's operations, including a report on freedom of information matters (defined in s 31 of the AIC Act) and privacy matters (defined in s 32 of the AIC Act).

The freedom of information matters include a summary of the data collected from Australian Government ministers and agencies in relation to activities under the *Freedom of Information Act 1982*.

I certify that the OAIC has prepared a fraud risk assessment and fraud control plan. We also have a number of appropriate fraud prevention, detection, investigation, reporting and data collection mechanisms in place. The OAIC has taken all reasonable measures to minimise the incidence of fraud.

I certify that this report has been prepared in line with the *Public Governance, Performance and Accountability Amendments (Non-Corporate Commonwealth Entity Annual Reporting) Rule 2016*.

Yours sincerely

Angelene Falk
Australian Information Commissioner
Privacy Commissioner
21 September 2020

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Part 1

Overview

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About the OAIC

The Office of the Australian Information Commissioner (OAIC) is an independent statutory agency within the Attorney-General’s portfolio, established under the *Australian Information Commissioner Act 2010*.

Our key role is to meet the needs of the Australian community in relation to the regulation of privacy and freedom of information. We do this by:

- ensuring proper handling of personal information under the *Privacy Act 1988* (Privacy Act) and other legislation
- protecting the public’s right of access to documents under the *Freedom of Information Act 1982* (FOI Act)
- performing strategic functions relating to information management within the Australian Government under the *Australian Information Commissioner Act 2010* (AIC Act).

Outcome and program structure

Our Portfolio Budget Statement describes the OAIC’s outcome and program framework.

Outcome	Provision of public access to Commonwealth Government information, protection of individuals’ personal information, and performance of Information Commissioner, freedom of information and privacy functions.
Program 1.1	Complaint handling, compliance and monitoring, and education and promotion.

Our annual performance statement details our activities and key deliverables, and measures our performance against our Portfolio Budget Statement targets and the strategic priorities set out in the *OAIC Corporate Plan 2019–20*:

- Advance online privacy protections for Australians
- Influence and uphold privacy and information access rights frameworks
- Encourage and support proactive release of government-held information
- Take a contemporary approach to regulation.

Purpose

Our purpose is to promote and uphold privacy and information access rights.

We do this by:

- making sure that Australian Government agencies and Australian Privacy Principles (APP) entities comply with the Privacy Act and other laws when handling personal information
- protecting the public’s right of access to documents under the FOI Act
- carrying out strategic information management functions within the Australian Government under the AIC Act.

Our regulatory activities include:

- conducting investigations
- handling complaints
- reviewing decisions made under the FOI Act
- monitoring agency administration
- advising the public, organisations and agencies.

Commissioner's review



The past 12 months have brought unprecedented challenges, with Australia's worst bushfire season on record soon followed by the COVID-19 pandemic. These

seismic events have had a significant impact on the everyday lives of us all.

They have also highlighted the importance of maintaining public trust and confidence in the handling of personal information and in providing access to government-held information, both vital tools in our emergency response.

The *OAIC's Corporate Plan for 2019–20* outlined a vision to increase public trust and confidence in the protection of personal information and access to government-held information. This has never been so important, as we sought solutions to halt the spread of the virus.

As the use of both personal information and digital solutions became necessary to respond to the pandemic and adjust to remote work, learning and social engagement, privacy issues also came to the fore.

Our engagement allowed us to harness the experience of data protection authorities around the world in grappling with the privacy impacts of new and emerging responses to COVID-19. Our international perspective and understanding informed and strengthened our advice to government, regulated entities and the community.

The OAIC has also taken on new responsibilities for overseeing privacy safeguards built into the COVIDSafe app system. We advised the Australian Government as it considered the privacy implications of the app and recommended legislative privacy protections to instil the highest level of trust and confidence in the community.

The amendments to the *Privacy Act 1988* provide strong privacy protections and expand our regulatory oversight role to cover state and territory access to COVIDSafe data. The publication of the Privacy Impact Assessment for the app and the government's response was an important transparency measure and sets a benchmark for government initiatives involving personal information.

In response to the challenges created by the pandemic, we have produced a range of privacy guidance for business, Australian Government agencies and individuals, including how to safeguard personal information in changed work environments and when venues are collecting information for contact tracing purposes.

The health and economic crisis caused by the coronavirus has created opportunities for greater

transparency through proactive release and real-time provision of information. This approach by government demonstrates how transparency can increase community confidence and influence behaviour.

At the same time, the impact of the outbreak had the potential to affect agencies' ability to meet statutory timeframes for processing freedom of information requests. We have recommended a range of measures to ensure agencies continue to meet their obligations, along with advice for people lodging FOI requests.

Earlier this year, we joined with our international and domestic counterparts to reinforce the importance of documenting decisions and providing access to government-held information through the pandemic and beyond. Our contribution to global transparency efforts includes our ongoing role in Australia's Open Government Partnership, as a member of the working group for the third Open Government National Action Plan.

Regulatory action

In operating as a contemporary regulator, our regulatory posture and approach is evidence-based, proportionate and seeks to respond to community expectations in addressing risk. In privacy, as in access to information, we exercise our regulatory functions in a way that helps entities to understand and voluntarily comply with obligations. We also take action that deters and remediates breaches of privacy and information access rights where they occur.

Following a detailed investigation, including cooperation with international authorities, in 2019–20 the OAIC launched our first civil penalty action, against Facebook. This action is part of the OAIC's ambition to advance online privacy protections for all Australians.

The government's response to the Digital Platforms Inquiry, carried out by the Australian Competition and Consumer Commission (ACCC) and informed by the OAIC's submissions and advice on privacy-related issues, has committed to a review of the Privacy Act. We have established a dedicated project team to engage with stakeholders and provide policy advice to government. We look forward to working cooperatively over the year ahead to advance a privacy law framework that is fit for purpose for the digital age.

We also worked closely with the ACCC in carrying out a significant program of work to implement the Consumer Data Right, which commenced on 1 July 2020. Our joint compliance and enforcement policy outlines how we will apply the CDR Rules and uphold the privacy safeguards to ensure consumer data is protected as the system expands.

The Notifiable Data Breaches scheme remains a focus for our agency. The scheme was introduced in February 2018 to strengthen consumer protection and elevate the security posture of organisations and agencies who handle personal information. In 2019–20 we recorded an 11% increase in notifications to the OAIC and to individuals at risk of harm.

We are engaging closely with notifying entities to understand the causes of breaches and ensure measures are put in place to rectify them and mitigate future incidents. We have also opened a number of Commissioner-initiated investigations to examine serious or systemic issues and evaluate compliance with the requirements of the scheme and the Privacy Act.

Regulatory functions

A highlight of 2019–20 is the success of our program to eliminate a backlog of privacy cases created by sustained increases in complaints over recent years. By implementing additional efficiency measures,

and with the support of additional funding, we closed 3,366 privacy complaints during the financial year – a 15% improvement on 2018–19.

In a reversal of the recent trend, the number of incoming privacy complaints declined by 19% in 2019–20. The significant drop recorded in the second half of the reporting period is likely to be due to the COVID-19 pandemic.

Applications for Information Commissioner (IC) review of FOI decisions continued to grow in 2019–20, increasing by 15% to 1,066. Following the COVID-19 outbreak, we also recorded a significant increase in agency applications for extensions of time to process FOI requests.

While the OAIC continues to face resourcing challenges in the FOI area, we implemented further process improvements and resolved more IC reviews during the reporting period than ever before. We achieved a 26% improvement, resolving 829 IC reviews in 2019–20.

The significant increase in the number of applications after sustained increases in previous years, along with our focus on reducing the number of cases over 12 months old, meant we finalised 72% of IC reviews within 12 months, short of our target of 80%.

The OAIC also delivered a wide range of guidance for regulated entities and the community during 2019–20 to improve awareness and practice across our core regulatory functions. We led campaigns for Privacy Awareness Week and Right to Know Day, engaging the public, practitioners and regulated entities to promote privacy and access to information rights and responsibilities.

Building trust and confidence

Australia’s response to the pandemic has demonstrated what can be achieved at speed when there is a common goal in the public interest. I would like to express my appreciation to the staff of the OAIC, who have consistently shown great commitment, flexibility and focus in working to advance privacy rights and access to information throughout this period.

The regulatory areas that we oversee are a key part of the solution to navigating through these challenging times. The examples of privacy by design, strong privacy protections and government transparency during this period not only support a sense of optimism about our path to recovery, they also set an encouraging precedent for the future of information management.



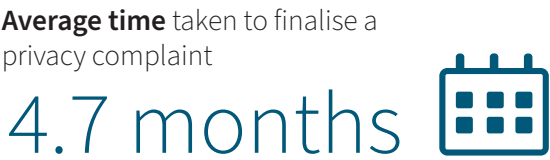
Angelene Falk

Australian Information Commissioner
Privacy Commissioner
16 September 2020

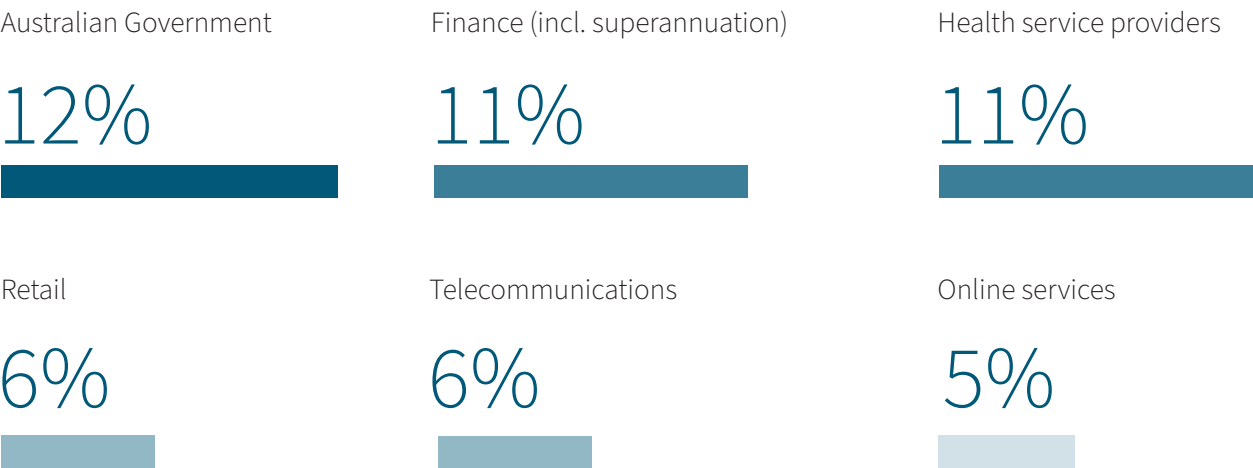


Our year at a glance

Privacy complaints



Most privacy complaints came from the following sectors:



Percentages have been rounded to the nearest whole number.

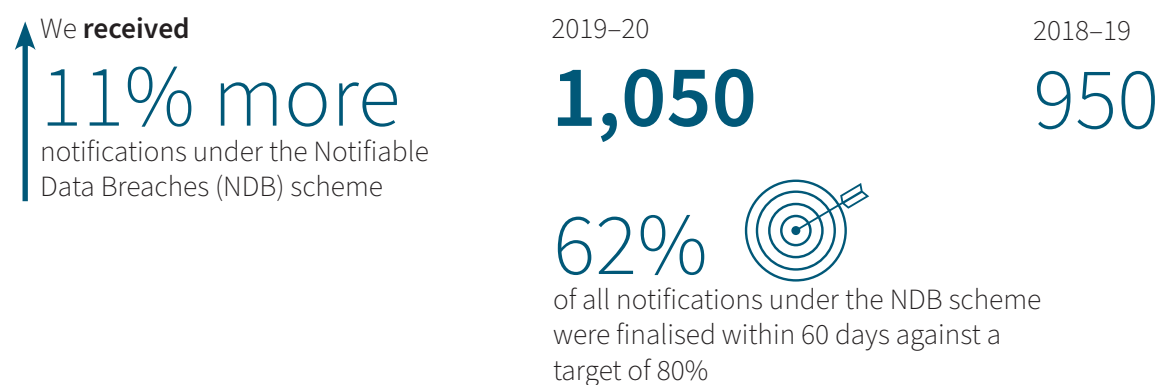
Privacy complaints



Privacy enquiries



Notifiable Data Breaches scheme



Percentages have been rounded to the nearest whole number. End-of-year statistics may differ from 6-monthly publication statistics.

Our year at a glance

FOI enquiries

We **handled**
↓
2,297
FOI enquiries

2019–20

20%
decrease
from 2018–19



phone
1,524



written
772



in person
1

FOI complaints

We **received**
↑
79% more
FOI complaints

2019–20
109

2018–19
61

FOI complaints

We **finalised**
↑
223% more
FOI complaints

2019–20
71

2018–19
22

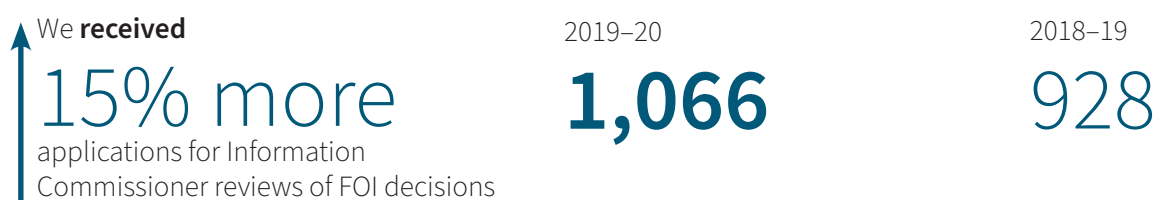
52% 
of all FOI complaints were finalised within
12 months against a target of 80%

Average time taken to close an
FOI complaint

11.6 months 

Percentages have been rounded to the nearest whole number.

IC reviews



The top 5 agencies involved in Information Commissioner reviews were:

Department of Home Affairs



Services Australia



Australian Federal Police




Department of Defence



Department of Foreign Affairs and Trade



72% 
of applications for Information Commissioner review were finalised within 12 months against a target of 80%

Average time taken to finalise an Information Commissioner review

8.1 months



Percentages have been rounded to the nearest whole number.

Our structure

The OAIC is headed by the Australian Information Commissioner, a statutory officer appointed by the Governor-General. The Commissioner has a range of powers and responsibilities outlined in the AIC Act, and also exercises powers under the FOI Act, the Privacy Act and other privacy-related legislation.

The Australian Information Commissioner is the agency head accountable for strategic oversight and the OAIC’s regulatory, strategic, advisory and dispute resolution functions, as well as financial and governance reporting.

Angelene Falk was appointed by the Governor-General to the roles of Australian Information Commissioner and Privacy Commissioner on 16 August 2018. She was acting Australian Information Commissioner and Privacy Commissioner from 24 March 2018 to 15 August 2018.

Angelene Falk

Angelene Falk has held senior positions in the OAIC since 2012, including serving as Deputy Commissioner from 2016 to March 2018. Over the past decade, she has worked extensively with Australian Government agencies, across the private sector and internationally, at the forefront of addressing regulatory challenges and opportunities presented by rapidly evolving technology and potential uses of data. Her experience extends across industries and subject matter, including data breach prevention and management, data sharing, credit reporting, digital health and access to information.

She holds a Bachelor of Laws with Honours and a Bachelor of Arts from Monash University and a Diploma in Intellectual Property Law from Melbourne University.

Support to the Commissioner

The Commissioner is supported by an Executive team of 4 Senior Executive Services (SES) positions and expert staff, working within the Dispute Resolution, Regulation and Strategy, and Corporate branches, and the FOI Regulatory Group.

The Dispute Resolution branch is responsible for privacy dispute resolution, responding to privacy enquiries, conducting Commissioner-initiated investigations and administering the Notifiable Data Breaches scheme.

The Regulation and Strategy branch is responsible for providing strategic policy advice and guidance to individuals, government and business. This includes examining legislation and other proposals that may have an impact on privacy and managing the program of work under the OAIC's International Strategy. It also undertakes proactive regulatory activities by auditing privacy practices in industry and government agencies. The branch is responsible for regulating privacy safeguards under the Consumer Data Right system and monitoring the privacy aspects of the COVIDSafe system.

The FOI Regulatory Group is responsible for undertaking Information Commissioner reviews, monitoring, investigating and reporting on compliance through FOI complaints and Commissioner-initiated FOI investigations, deciding applications for vexatious applicant declarations and extensions of time, collecting information

and statistics from agencies and ministers about FOI matters and providing advice and guidance on FOI and information access related matters.

The Corporate branch includes legal services, strategic communications and corporate services with people and culture, governance, finance and information management services functions.

Deputy Commissioner — Elizabeth Hampton

As Deputy Commissioner, Elizabeth Hampton is the principal adviser to the Australian Information Commissioner and Privacy Commissioner.

Ms Hampton joined the OAIC in January 2019 and brings more than 25 years' experience in senior positions in the Australian Public Service. She served as Industry Complaints Commissioner with the Civil Aviation Safety Authority from 2010 to 2014, when she was appointed to the Australian Customs and Border Protection Service as National Manager, Integrity and Professional Standards and Special Integrity Adviser to the Chief Executive Officer.

Ms Hampton held a variety of senior executive positions within the Australian Government Home Affairs portfolio prior to joining the OAIC. Previously, she worked at Centrelink, the Office of the Commonwealth Ombudsman and the Australian Competition and Consumer Commission (ACCC).

Ms Hampton holds a Bachelor of Arts from the University of Sydney, a Diploma of Law and a Graduate Diploma in Legal Practice.

Assistant Commissioner, Regulation and Strategy — Melanie Drayton

Melanie Drayton leads the OAIC's Regulation and Strategy branch. Ms Drayton was appointed Assistant Commissioner in 2016 after holding a range of positions within the OAIC, leading both reactive and proactive regulatory activities and strategic policy work. She has supported the mission of the OAIC in preparing guidance, drafting legislative instruments, and promoting the requirements of the Privacy Act and FOI Act.

Before joining the OAIC (the former Office of the Privacy Commissioner) in 2001, Ms Drayton worked for the NSW Government and community sector. She holds a Bachelor of Laws and a Bachelor of Arts from the University of Technology, Sydney and a Graduate Certificate in Legal Practice. She was admitted as a legal practitioner to the Supreme Court of NSW in 2001.

Assistant Commissioner, Corporate — Ruth Mackay PSM

Ruth Mackay leads the OAIC's Corporate branch. Ms Mackay joined the OAIC in September 2019 and brings 19 years' experience within the Australian Public Service Senior Executive Service. Most recently, Ms Mackay held senior governance-related roles at the Civil Aviation Safety Authority. Prior to this Ms Mackay served as General Manager of Product Safety at the Australian Competition and Consumer Commission (ACCC). Other senior positions held include Registrar of Trade Marks and Designs, and General Manager, Customer Service at IP Australia.

Ms Mackay was awarded the Public Service Medal in 1996 for her work developing and implementing business and consumer education programs while at the ACT Consumer Affairs Bureau. She holds a

Bachelor of Arts and Diploma of Education from Macquarie University, a Graduate Diploma of Legal Studies from the University of Canberra and a Graduate Certificate in the Psychology of Risk from the Australian Catholic University.

Assistant Commissioner, Dispute Resolution — Andrew Solomon

Andrew Solomon served as Assistant Commissioner, Dispute Resolution until November 2019, having spent more than a decade at the OAIC and former Office of the Privacy Commissioner. Previously, he was NSW State Manager for the National Native Title Tribunal, and ran the Central Sydney Community Transport Group, a not-for-profit organisation.

Mr Solomon holds a Bachelor of Laws from the University of New South Wales and a Graduate Diploma in Legal Practice. He was admitted to the Australian legal profession by the Supreme Court of NSW in 1994.

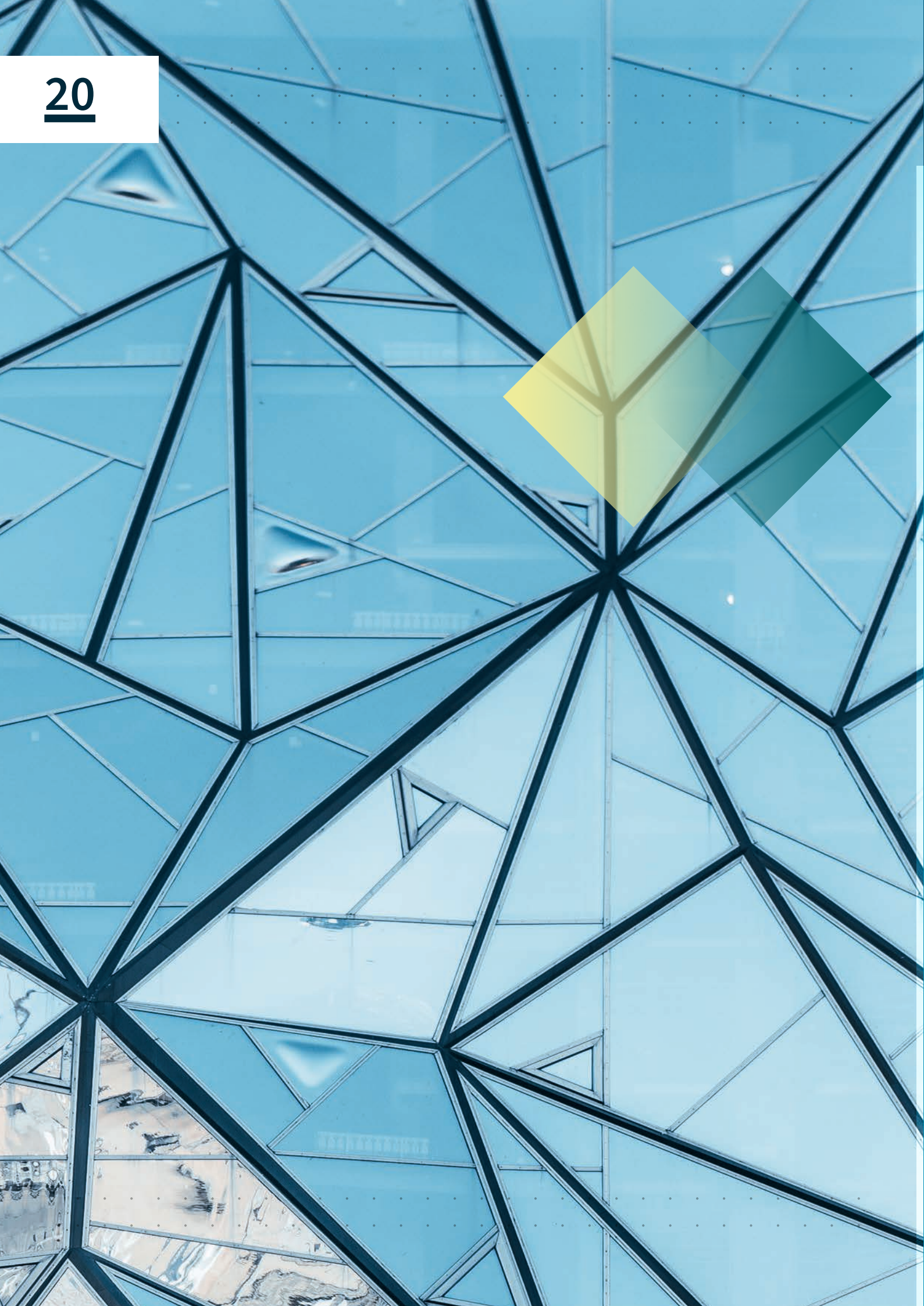
Assistant Commissioner, Dispute Resolution — David Stevens

David Stevens leads the OAIC's Dispute Resolution branch. Mr Stevens joined the OAIC in February 2020 after more than 20 years working in prominent legal and investigations-related roles in Australia and overseas, as Assistant Commonwealth Director of Public Prosecutions, Head of Chambers of the International Criminal Court in The Hague, at the NSW Crown Solicitor's Office and most recently, the NSW Electoral Commission. He is an experienced change leader, an accredited mediator and has also worked as a law lecturer and training officer.

Mr Stevens holds a Bachelor of Laws, a Bachelor of Economics, a Master of Laws and a Graduate Diploma in Legal Practice. He was admitted as a legal practitioner in 1990.



OAIC Executive. Left to right, Assistant Commissioner, Dispute Resolution — David Stevens, Deputy Commissioner — Elizabeth Hampton, Assistant Commissioner, Corporate — Ruth Mackay PSM, Australian Information Commissioner and Privacy Commissioner Angelene Falk, Assistant Commissioner, Regulation and Strategy — Melanie Drayton
Missing from photo — Assistant Commissioner, Dispute Resolution — Andrew Solomon (retired November 2019)



Part 2

Performance

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Our annual performance statement

Introduction

I, Angelene Falk, as the accountable authority of the Office of the Australian Information Commissioner (OAIC), present the 2019–20 annual performance statement of the OAIC, as required under paragraph 39(1)(a) of the *Public Governance, Performance and Accountability Act 2013* (PGPA Act). In my opinion, this annual performance statement is based on properly maintained records, accurately reflects the performance of the entity, and complies with subsection 39(2) of the PGPA Act.

Overall performance

During this reporting period, we worked to achieve the 31 indicators outlined in the *OAIC Corporate Plan 2019–20*. We measure our success against our performance indicators which are grouped under our 4 strategic priorities.

We delivered on our purpose to promote and uphold privacy and information access rights.

In 2019–20, the OAIC achieved 16 of our 31 performance indicators and partially achieved 4 indicators. We did not achieve 8 indicators, and this result largely reflects increased volumes of work and our systematic efforts to reduce the backlog created by a sustained increase in privacy complaints and Information Commissioner (IC) review applications over recent years.

Three further indicators did not apply during this reporting period, as the commencement of the Consumer Data Right and reforms to the *Privacy Act 1988* (Privacy Act) were delayed.

Among the highlights of our performance in 2019–20:

- We assisted 3,366 complainants in resolving privacy issues, about 15% more than in 2018–19, with an average finalisation time of 4.7 months
- We handled 14,842 privacy enquiries and 2,297 FOI enquiries, down 15% and 20% respectively on 2018–19
- We finalised 26% more IC reviews than in 2018–19
- We cooperated with our co-regulator, the Australian Competition and Consumer Commission (ACCC), to implement the Consumer Data Right on 1 July 2020
- For the first time in the history of the OAIC, we commenced civil proceedings in the Federal Court. Proceedings are against Facebook Inc. and Facebook Ireland
- Following the outbreak of COVID-19, we convened a COVID Taskforce and provided a significant volume of policy advice, including in relation to the important privacy safeguards that were built into the Australian Government's COVIDSafe app
- We released a *Guide to health privacy* to help providers understand their obligations and embed good privacy practice
- We launched a new e-learning course to support good privacy practice in Australian Government agencies
- We attracted a record number of supporters for our Privacy Awareness Week campaign
- We led a campaign for Right to Know Day to raise awareness of access to information rights and responsibilities.

Results

Our performance is measured against the 31 indicators in the *OAIC Corporate Plan 2019–20*.

Table 2.1: Indicators by status

Indicator	Measure	Status
1.1 The OAIC has influenced the development of globally aligned privacy protections	(1) The OAIC is actively engaged in global privacy forums (2) Greater alignment between Australian protections and global best practice	Partially achieved
1.2 The OAIC has worked with stakeholders to develop online privacy protections	Active engagement with stakeholders	Achieved
1.3 Protections are enforced through regulatory conduct	Commissioner's determinations, directions and enforceable undertakings are complied with; civil penalties are awarded; assessment recommendations are accepted.	Not applicable
1.4 Community is aware of the risks of engaging online	Privacy awareness is tracked through longitudinal survey	Achieved
1.5 Individuals take action to protect their online privacy	Online privacy behaviour is tracked through longitudinal survey	Partially achieved

Notes

Indicator 1.1 was 'Partially achieved' because the legislation to support the code of practice for digital platforms was delayed and this meant alignment with global best practice was not achieved.

Indicator 1.3 was 'Not applicable' because the legislation to support the code of practice for digital platforms was delayed.

Table 2.1: Indicators by status

Indicator	Measure	Status
2.1 Policy and legislative reform proposals are identified	The OAIC has identified and advanced proposals	Achieved
2.2 Handling privacy complaints	Time taken to finalise privacy complaints*	Achieved
2.3 Conducting Privacy Commissioner-initiated investigations (CIIs)	Time taken to finalise privacy CIIs*	Not achieved
2.4 Handling data breach notifications	(1) Time taken to finalise data breach notifications (DBNs)* (2) Time taken to finalise My Health Record DBNs*	Not achieved
2.5 Providing an Information Commissioner (IC) review function	Time taken to complete IC reviews*	Not achieved
2.6 Handling FOI complaints	Time taken to finalise FOI complaints*	Not achieved
2.7 Conducting Commissioner-initiated investigations (FOI)	Time taken to finalise CIIs (FOI)*	Not achieved
2.8 Targeted monitoring, guidance and advice provided	Submissions, guidance, advice and monitoring provided that effect change to protect privacy and access to information rights	Achieved
2.9 Provide a public information service	Time taken to finalise written enquiries*	Not achieved
2.10 Increase in community awareness and understanding of privacy and information access rights	(1) Visits to OAIC website (2) Social media engagement	Achieved
2.11 Open Banking is implemented with strong privacy protections	(1) Project milestones met (2) Ongoing advice is provided and integrated into the scheme	Achieved
2.12 The OAIC promotes awareness of Consumer Data Right privacy rights	Education and awareness materials are developed and promoted	Achieved
2.13 Community uses the Consumer Data Right complaints mechanism to protect their privacy rights	Complaint handling mechanism for the Consumer Data Right is operational and actively used	Not applicable

Note

Indicator 2.13 was 'Not applicable' because the introduction of the Consumer Data Right was delayed from 1 February to 1 July 2020.

* Target in OAIC Portfolio Budget Statement 2019–20.

Table 2.1: Indicators by status

Indicator	Measure	Status
3.1 Improvement in FOI review trends and FOI complaints trends	Number of FOI requests to government agencies and FOI complaints	Not achieved
3.2 Improvement in time taken to respond to FOI requests	FOI requests determined and processed within the applicable statutory time period	Not achieved
3.3 More government-held information is published proactively	Information available on agency websites	Partially achieved
3.4 Increase in community awareness and understanding of information access rights	(1) Visits to OAIC website	Achieved
	(2) Social media engagement	

Table 2.1: Indicators by status

Indicator	Measure	Status
4.1 The OAIC has sufficient statutory powers to detect and deter non-compliance	Powers are enhanced	Not applicable
4.2 The OAIC is seen to take appropriate regulatory action in relation to breaches of the relevant law	Media and stakeholder sentiment	Achieved
4.3 International regulators actively seek the views of the OAIC in relation to policy development or enforcement activities	Engagement with international regulators	Achieved
4.4 The OAIC has strong and productive relationships with domestic regulators	Regular engagement with other regulators	Achieved
4.5 Improved employee engagement	Measured through APS Employee Census	Achieved
4.6 Reduced staff turnover rate	Staff turnover rate	Partially achieved
4.7 Strong competition for vacancies	Sufficient high-quality applicants for advertised roles	Achieved
4.8 Internal capability supports the full range of OAIC functions	Approved training courses completed	Achieved
4.9 Data analysis identifies enterprise risks	Reports completed	Achieved

Note

Indicator 4.1 was 'Not applicable' because legislation amending the Privacy Act was not enacted during the reporting period.

Strategic Priority 1

Advance online privacy protections for Australians

The OAIC works to advance online privacy protections for Australians which support the Australian economy. We do this by influencing the development of legislation, applying a contemporary approach to regulation (including through collaboration) and raising awareness of online privacy protection frameworks.

Key focus area: Influence development of legislation

The OAIC has worked with international and domestic regulators, government, businesses and the community to help ensure that privacy policy and legislation is globally aligned. We seek to increase online privacy protection and support the Australian economy.

Indicator 1.1: The OAIC has influenced the development of globally aligned privacy protection



Measure

(1) The OAIC is actively engaged in privacy forums.



Target: Qualitatively demonstrated

Achieved.

The OAIC recognises that global and regional forums present a unique opportunity for Australia to be a leader in the privacy community and influence the global debate on privacy issues.

These forums allow us to collaborate when developing policy, guidance and education campaigns; influence the development of global policy and standards; and cooperate on investigations and enforcement. Through these forums we work towards the interoperability of Australia's privacy framework with other data protection frameworks around the world, exchange information to make the best use of our resources and help ensure consistency in the system of regulatory oversight.

The OAIC is a member of the Global Privacy Assembly, which provides international leadership by coordinating the efforts of over 130 privacy and data protection authorities from across the globe. The Global Privacy Assembly is governed by the Executive Committee and receives strategy advice from the Executive Committee's Strategic Direction Sub-Committee. Commissioner Angelene Falk is a member of the Executive Committee and is Chair of the Strategic Direction Sub-Committee.

We are also a founding member of the Asia Pacific Privacy Authorities Forum, which provides leadership and support for the privacy regulator community in the Asia Pacific region.

At national level, we are a member of the Privacy Authorities Australia network, which advances best practice privacy policy, and we convened the COVID-19 National Privacy Team to respond to personal information handling proposals with national implications. For more information see Domestic networks on page 72.



Measure

(2) Greater alignment between Australian protections and global best practice.



Target: Qualitatively demonstrated

Partially achieved.

The Attorney-General's Department is developing legislation to amend the Privacy Act, including powers for the development of a code of practice for social media and online platforms that trade in personal information. The code will require these entities to be transparent about data sharing and obtain specific consent from users for the collection, use and disclosure of personal information.

Although the legislation has been delayed as a result of the COVID-19 pandemic, the OAIC has been undertaking preparatory work to support the development of the code including commissioning research to inform our policy positions on the requirements of the code.

International privacy networks

Global Privacy Assembly

The Global Privacy Assembly (GPA) first met in 1979 as the International Conference of Data Protection and Privacy Commissioners. The GPA is the premier global forum of Data Protection and Privacy Commissioners, with over 120 members from all regions of the world. The GPA seeks to build an environment in which privacy and data protection authorities around the world are able effectively to act to fulfil their mandates, both individually and

in concert, through diffusion of knowledge and supportive connections.

The OAIC seeks to influence consistency and cooperation in the global regulation of privacy to ensure that Australians' personal information is protected wherever it flows. The OAIC provides leadership to the global privacy community through its role on the Executive Committee of the GPA. The Commissioner also chairs the Strategic Direction Sub-Committee, which is responsible for advising the Executive Committee on the strategic direction and focus of the GPA.

The GPA has a number of working groups which are tasked with delivering outcomes in relation to the most significant initiatives identified by the GPA's membership. The OAIC co-chairs a working group which considers the regulatory intersection between privacy, consumer protection and competition. The OAIC recognises that this collaboration between data protection authorities and consumer protection authorities is an essential part of protecting consumers in the digital economy. The OAIC is also an active member of the International Enforcement Working Group and was one of the original signatories to the Global Cross Border Enforcement Cooperation Arrangement.

In October 2019, the OAIC submitted 2 resolutions which were unanimously adopted at the 41st meeting of the GPA in Albania:

- resolution to support and facilitate regulatory cooperation between data protection authorities and consumer protection and competition authorities to achieve clear and consistently high standards of data protection in the digital economy
- resolution to address the role of human error in personal data breaches.

Asia Pacific Privacy Authorities forum

The Asia Pacific Privacy Authorities (APPA) forum is the principal forum for privacy authorities in the Asia Pacific region to form partnerships and exchange ideas about privacy regulation, new technologies and the management of privacy enquiries and complaints.

The OAIC is an active participant in APPA events and activities. Over the last 12 months, we have attended both APPA forums and engaged in discussions on jurisdictional updates. In December 2019, the OAIC attended the APPA forum hosted by the National Privacy Commission of the Philippines. In June 2020, we participated in the meeting hosted virtually by the Personal Data Protection Commission of Singapore, and we presented on Australia's current privacy law reform, the Australian COVID-19 response and activities of the GPA.

Global Privacy Enforcement Network

The Global Privacy Enforcement Network (GPEN) is designed to facilitate cross-border cooperation in the enforcement of privacy laws. GPEN builds on the Organisation for Economic Co-operation and Development's (OECD) Recommendation on Cross-border Cooperation in the Enforcement of Laws Protecting Privacy which recognises the need for greater cooperation between privacy enforcement authorities on cross-border privacy matters.

The OAIC attends regular teleconferences to discuss topical issues and engages in the GPEN alert system.

Indicator 1.2: The OAIC has worked with stakeholders to develop online privacy protections



Measure

Active engagement with stakeholders.



Target: Qualitatively demonstrated

Achieved.

The Attorney-General's Department is developing legislation to amend the Privacy Act to introduce a new penalty regime and enforcement powers, and powers for the development of a code of practice for social media and online platforms that trade in personal information. The code will require these companies to be more transparent about any data sharing and obtain more specific consent of users when they collect, use and disclose personal information.

This legislation has been delayed as a result of the Attorney-General's Department's work in relation to the COVID-19 pandemic. However, the OAIC has undertaken preparatory work to assist in collaborating with stakeholders to develop the code. We have established a dedicated project team to manage this work. We have also liaised with the Attorney-General's Department throughout the development of the draft legislation.

The OAIC also met online industry stakeholders to discuss the proposed code of practice for social media and online platforms that trade in personal information.

Key focus area: Develop a code of practice for digital platforms

The OAIC continues to work to develop a binding code of practice for digital platforms that provides stronger privacy protections for Australians in the online environment, and for groups with particular needs such as children.

Indicator 1.3: Protections are enforced through regulatory conduct



Measure

Commissioner's determinations, directions and enforceable undertakings are complied with; civil penalties are awarded; assessment recommendations are accepted.



Target: 90% compliance

Not applicable.

Amendments to the Privacy Act and the development of a code of practice for social media and online platforms that trade in personal information have been delayed as a result of the COVID-19 pandemic. As such, no enforcement action has been taken.

However, as it currently stands, the Privacy Act confers a range of regulatory powers on the Commissioner. This includes powers to investigate possible interferences with privacy and to conduct assessments of whether entities handle personal information in accordance with the Australian Privacy Principles (APPs). The Commissioner's enforcement powers include powers to accept an enforceable undertaking, to make a determination and to apply to the Federal Court for a civil penalty order alleging a serious and/or repeated interference with privacy.

Under the existing legislation, the OAIC has commenced an investigation into the online conduct of Clearview AI Inc. (Clearview). In 2019–20,

the Commissioner opened an investigation into the personal information handling practices of Clearview focusing on the company's use of 'scraped' data and biometrics of individuals.

Further, in March 2020 the Commissioner commenced proceedings against Facebook Inc. and Facebook Ireland in the Federal Court. The Commissioner alleges the social media platform has committed serious and/or repeated interferences with privacy in contravention of the Privacy Act. The proceedings are continuing in 2020–21.

Key focus area: Identify and take appropriate regulatory actions

The OAIC is tasked with regulating the protection of personal information in the online environment and making regulated entities aware of their obligations. This includes auditing compliance, engaging with regulated entities about the development of new online products, and taking appropriate regulatory action to address deficiencies. We have worked to raise public awareness of the privacy risks of engaging in the online environment.

Indicator 1.4: Community is aware of the risks of engaging online



Measure

Privacy awareness is tracked through longitudinal survey.



Target: Community awareness of privacy risks increases compared to previous surveys

Achieved.

The OAIC undertook the Australian Community Attitudes to Privacy Survey (ACAPS) from February to March 2020, which asked respondents what they think are the biggest privacy risks facing Australians today. Identity theft and fraud was perceived to

be the biggest privacy risk (76%), followed by data security and data breaches (61%), social media sites (58%) and smartphone apps (49%).

The same question was asked in 2017 on an unprompted basis, which limits comparisons between the data. However, 27% of respondents named online services and social media sites as the biggest privacy risks in 2017. Identity theft and fraud was nominated by 19% of 2017 respondents, data security and data breaches by 17%, while only 3% said smartphone apps were the biggest privacy risk.

Facebook proceedings

Public awareness of the risks of engaging online was raised when the Commissioner lodged proceedings against Facebook Inc. and Facebook Ireland in the Federal Court of Australia on 9 March 2020. The OAIC published a media release on our website about the commencement of proceedings and a further statement on 22 April 2020. For more information see Case Study: CII – Facebook Inc. and Facebook Ireland on page 41.

Privacy Awareness Week 2020

Privacy Awareness Week (PAW) is an annual initiative of the OAIC that highlights the importance of protecting personal information and promotes good privacy practice. The event is held in partnership with state and territory regulators and the Asia Pacific Privacy Authorities (APPA) forum.

The OAIC's PAW campaign for 2020 — 'Reboot your privacy' — ran from 4 to 10 May 2020 and focused on raising awareness of online privacy risks and how to combat them. The campaign website launched in early April and featured interactive tips to enhance understanding of data practices in the digital environment and how to protect personal information.

Rather than postpone the PAW campaign in light of the COVID-19 pandemic, the OAIC delivered PAW 2020 in an entirely digital format. The Commissioner participated in several virtual events including:

- OneTrust webinar: Privacy in a pandemic
- Queensland PAW presentation hosted on the Office of the Queensland Information Commissioner website
- OAIC Q&A video hosted on the PAW 2020 website.

A record number of organisations signed up as official PAW supporters in 2019–20 (549, up from 500 in 2018–19 and 360 in 2017–18). Supporters were given access to a wide range of resources to promote the importance of good privacy practice to their staff, customers and other stakeholders, including posters, social media tiles and banners, presentation slides and digital assets.

"The collection and handling of personal information is ... critical to containing COVID-19. It is part of addressing this health crisis and ensuring that we emerge from the pandemic with our rights protected."

Privacy laws both enable agile, innovative responses to protect the public interest and protect our fundamental rights. This has never been more evident."

Angelene Falk, Australian Information Commissioner and Privacy Commissioner, presentation to launch Privacy Awareness Week 2020 in Queensland. Recorded on 28 April 2020.

Indicator 1.5: Individuals take action to protect their online privacy



Measure

Online privacy behaviour is tracked through longitudinal survey.



Target: Community is more likely to adjust privacy settings

Partially achieved.

ACAPS found that while respondents are less likely to adjust privacy settings on a social networking site compared to 2017, they are taking a range of other actions to protect their privacy online.

In 2020, 46% of people said they always or often adjust privacy settings on a social networking website, compared to 55% in 2017.

The proportion of respondents who always or often took the following steps to protect their personal information online also declined from 2017 to 2020:

- checking websites were secure before sharing personal information (2020: 56%; 2017: 62%)
- clearing their browsing and search history (2020: 51%; 2017: 55%)
- choosing not to use an app on a mobile device (2020: 38%; 2017: 50%).

However, the survey also found that 7 in 10 Australians have either deleted an app and/or denied an app permission to access information due to concerns about their data privacy.

Three-quarters (75%) of those surveyed said they care enough about protection of their personal information to ‘actually do something about it’ and only 30% believe it is too much effort to protect the privacy of their data.

The number of people who always or often refuse to provide personal information increased from 28% in 2017 to 34% in 2020. Almost 1 in 3 (32%) always or

often use an ad blocker, VPN, privacy-focused web search engine or incognito mode when browsing, while 29% always or often choose an app or software because it has better privacy practices.

Almost a quarter (23%) have asked for their personal information to be deleted, 13% have changed provider, and 4% have given up on using a service out of concern for their data privacy.

Australian Community Attitudes to Privacy Survey 2020

The OAIC undertook the Australian Community Attitudes to Privacy Survey (ACAPS) between February and March 2020. ACAPS is a longitudinal study of community understanding, attitudes to and behaviours relating to privacy.

The survey was conducted for the OAIC by Lonergan Research using a nationally representative sample of 2,866 unique respondents aged 18 years and over. For the first time since the survey’s inception in 2001, all data for the survey was collected online. Additional research was conducted in early April 2020 to measure changing attitudes to privacy issues following the COVID-19 outbreak.

The main objectives of the 2020 survey were to:

- provide insight into Australian attitudes towards privacy
- understand the change in Australian attitudes and behaviours over time through the construction of longitudinal trend models
- identify awareness of and concern about emerging privacy issues, related to new technologies and regulation
- collect data to assist the OAIC as the national privacy regulator across policy, compliance and communications initiatives.

The insights from this research provide important signposts for policy makers, businesses and community organisations and also inform our work in policy, regulation and consumer education.

Strategic Priority 2

Influence and uphold privacy and information access rights frameworks

The OAIC regulates the collection and management of personal information by organisations and agencies to ensure it is handled responsibly. We promote access to government-held information through the regulation of the *Freedom of Information Act 1982* and in the provision of information policy advice. The OAIC promotes and upholds these rights and regulatory frameworks through its core functions. This includes influencing global and domestic legislative and regulatory developments to advance the national interest.

Key focus area: Influence policy and legislative change to ensure frameworks remain appropriate

The OAIC provides advice to government proposing policy and legislative change that responds to the changing environment in order to maintain or enhance information access and privacy rights. The OAIC also influences global regulatory developments to advance Australia's national interest in strong global frameworks.

Indicator 2.1: Policy and legislative reform proposals are identified



Measure

The OAIC has identified and advanced proposals.



Target: Qualitatively demonstrated

Achieved.

The OAIC has provided timely and informed advice to government regarding the privacy and access to information impacts of proposals for legislative reform. The OAIC has provided bill scrutiny comments across a broad range of subject areas including education and training, health, social security, the environment, migration, national security, telecommunications, competition and consumer law, and aged care.

The OAIC has provided advice in relation to the COVID-19 pandemic, developments in national security, law enforcement, telecommunications, data-matching and the development and deployment of new technologies across various industry sectors.

Specifically, in relation to the COVID-19 pandemic, the OAIC has engaged closely with key stakeholders such as the Department of Health and provided advice in relation to:

- the expansion of telehealth services and the related Privacy Impact Assessment
- the development and deployment of the COVIDSafe app and the related Privacy Impact Assessment
- amendments to the Privacy Act enshrining strict privacy safeguards for COVIDSafe app data.

The OAIC made several recommendations in relation to the COVIDSafe app, including that legislative safeguards would provide the strongest form of privacy protection and engender the greatest trust and confidence in the public's use of the app. This recommendation was accepted and implemented, and important privacy protections were enshrined in the Privacy Act in relation to COVIDSafe app data. These strong privacy measures were designed to give Australians confidence in the protection of their personal information within the COVIDSafe system.

The OAIC has undertaken research into global responses to the COVID-19 pandemic, including the development of various contact tracing apps and other technological developments which have relied on personal information to respond to and manage the global health crisis. The OAIC's research has informed our advice to stakeholders, including our regulatory counterparts around the world.

Key focus area: Identify and take appropriate regulatory action

The OAIC regulates the handling of personal information by organisations and agencies. We also regulate access to government-held information under the FOI Act and review decisions made by agencies and ministers.

We provide complaint, review, investigation, notifiable data breach, assessment and public information services. We monitor and provide guidance and advice to mitigate impacts on privacy and access to government-held information.

Australian Privacy Principles

Australian Government agencies and private sector organisations covered by the Privacy Act must comply with the law when collecting, using and storing an individual's personal information. 'Personal information' is any information that is about an individual. The most obvious example is an individual's name. Other examples include their address, their date of birth, a photo of their face or a record of their opinion and views. Any information or an opinion that is about an identified individual, or a reasonably identifiable individual, is personal information.

The Privacy Act includes 13 Australian Privacy Principles (APPs), which set out the requirements for business and government agencies managing personal information.

- APP 1 — Open and Transparent Management of Personal Information
- APP 2 — Anonymity and Pseudonymity
- APP 3 — Collection of Solicited Personal Information
- APP 4 — Dealing with Unsolicited Personal Information
- APP 5 — Notification of the Collection of Personal Information
- APP 6 — Use or Disclosure of Personal Information
- APP 7 — Direct Marketing
- APP 8 — Cross-Border Disclosure of Personal Information
- APP 9 — Adoption, Use or Disclosure of Government Related Identifiers
- APP 10 — Quality of Personal Information
- APP 11 — Security of Personal Information
- APP 12 — Access to Personal Information
- APP 13 — Correction of Personal Information

Indicator 2.2: Handling privacy complaints



Measure

Time taken to finalise privacy complaints.



Target: 80% of privacy complaints are finalised within 12 months

Achieved.

Under s 36 of the Privacy Act complaints may be made to the Commissioner by individuals about an act or practice that may be an interference with their privacy. An interference with privacy may relate to credit reporting provisions of the Privacy Act or to the APPs.

The APPs deal with the management, collection, use and disclosure, quality and security, access and correction of personal information held by an agency or organisation covered by the Privacy Act.

In 2019–20 the complaint handling team:

- received 2,673 privacy complaints, which is a 19% decrease in the number of privacy complaints received in 2018–19. This is a reversal of the trend over the preceding 3 years, however the significant drop in privacy complaints recorded in the second half of the reporting period is likely to be due to the COVID-19 pandemic and may not continue
- closed 3,366 privacy complaints, which is 15% more than in 2018–19 and 22% more than 2017–18
- finalised 87% of all privacy complaints within 12 months of receipt. The average time taken to close a privacy complaint was 4.7 months.

Privacy complaints by issue

The majority of privacy complaints we received were about the handling of personal information under the APPs. The most common issues raised in these complaints were:

- use or disclosure of personal information (APP 6)
- security of personal information (APP 11)
- access to personal information (APP 12)
- collection of solicited personal information (APP 3)
- quality of personal information (APP 10).

During this reporting period, 11% of the privacy complaints we received were about credit reporting – a slight increase from the last financial year (2018–19: 10%) but lower than the previous two financial years (2017–18: 14%; 2016–17: 16%). The decrease reflected the continuing role of external dispute resolution schemes in resolving complaints about credit reporting matters.

Sectors

Privacy complaints can arise in a broad range of sectors. The top 10 sectors complained about have changed from previous years. The Australian Government has overtaken finance as the most complained about sector. The retail sector has overtaken the telecommunications sector and real estate agents have risen 2 places from ninth to seventh. Insurance also moved into the top 10 sectors in 2019–20.

Table 2.2.1: Top 10 sectors by privacy complaints received

Sector	2019–20
Australian Government	319
Finance (including superannuation)	305
Health service providers	300
Retail	159
Telecommunications	149
Online services	132
Real estate agents	126
Credit reporting bodies	108
Insurance	108
Personal services (includes employment, childcare and vets)	94

Resolving complaints

The OAIC’s early resolution, conciliations and investigation and determinations areas deal mostly with APP and credit reporting complaints. Our complaint handling team also finalises complaints about spent convictions, My Health Records, tax file numbers, Australian Capital Territory Privacy Principles, data-matching, healthcare identifiers and student identifiers.

Complaints are initially assessed against the OAIC’s jurisdiction and informal resolution is attempted. In 2019–20 this early resolution approach resolved 77% of all complaints closed during the year.

Under s 40A of the Privacy Act, the Commissioner must attempt conciliation where it is reasonably possible that the complaint may be conciliated successfully. See Case Studies on page 37.

Where matters are not resolved through early resolution, we attempt resolution by mediated

agreement between the parties. In 2019–20 we conciliated over 175 complaints with 59% successfully resolved.

Matters not resolved in conciliation or which are considered not able to be conciliated are referred for investigation into compliance with the Privacy Act, under s 40. See Case Studies on page 38.

The Commissioner may also decline to investigate matters further under s 41 of the Privacy Act where, for example, no interference with privacy is found, investigation is not warranted in the circumstances, or the complaint is being adequately dealt with by the respondent.

Under s 52 of the Privacy Act, after investigating a complaint, the Commissioner may make a determination finding the complaint is substantiated and a declaration concerning remedial actions, such as compensation. In 2019–20, the Commissioner made 4 determinations.



Case Studies: Privacy complaints – resolved in conciliation

Case Study 2.2.1: Release of information by healthcare provider – resolved in conciliation

The complainant had learned that the respondent, a healthcare provider, had inadvertently sent forms containing their sensitive health information to an incorrect recipient, due to human error.

The OAIC conducted a conciliation between the parties, who agreed to resolve the complaint. This was on the basis of a payment of \$10,000, and the respondent implementing further staff training to ensure this did not occur again.

Case Study 2.2.2: Collection of sensitive information by research agency – resolved in conciliation

The complainant became aware that the respondent, a research organisation, had collected sensitive information about his family without their consent.

Following preliminary inquiries, the OAIC conducted a conciliation which led to the resolution of the complaints by agreement between the parties. To resolve the complaints the respondent agreed to delete the sensitive information and to raise the issues identified with its ethics committee. It also agreed to review its practices, identify training needs and adopt recommendations from an external legal audit of its privacy processes.

Case Study 2.2.3: Disclosure of personal information by employer – resolved in conciliation

A dispute between parties to an employment relationship was resolved by conciliation. The complainant had learned that her employer had disclosed information about her to another organisation.

During conciliation both parties negotiated to resolve the complaint by an agreed separation of employment, on the terms that the complainant received from the respondent a written apology, payment of \$20,000 (plus all statutory entitlements) and a written statement of service.

External dispute resolution schemes

The Information Commissioner can recognise an external dispute resolution scheme (EDRS) to handle particular privacy-related complaints (s 35A of the Privacy Act). The EDRSs we recognise are:

- Australian Financial Complaints Authority
- Energy & Water Ombudsman NSW
- Energy & Water Ombudsman SA
- Energy and Water Ombudsman (Victoria)
- Energy & Water Ombudsman Queensland

- Energy and Water Ombudsman Western Australia
- Public Transport Ombudsman (Victoria)
- Telecommunications Industry Ombudsman
- Tolling Customer Ombudsman.

During 2019–20 the OAIC collaborated with EDRSs for privacy complaint management and transferred relevant complaints. The decrease in the number of complaints received by the OAIC about credit reporting matters reflects the role played by EDRSs. Our collaboration with these schemes is expected to result in a greater number of privacy complaints being transferred in 2020–21.



Case Studies: Privacy complaints – finalised by investigation

Case Study 2.2.4: Privacy complaint about gym – finalised by investigation

The complainant attended a gym for a single trial session. The complainant had become aware that their personal information had been disclosed to other branches of the gym franchise without the complainant's knowledge or consent.

We conducted preliminary inquiries into the matter. The respondent apologised to the complainant, deleted the complainant's personal information and deactivated the account.

Case Study 2.2.5: Privacy complaint about health service provider – finalised by investigation

The complainant was a patient at one health service provider. The complainant became aware that her personal information was provided without her knowledge or consent to a related health service provider (the respondent) when she received a letter marketing their services.

We conducted preliminary inquiries into the matter. The respondent returned the personal information to the first health service provider, apologised to the complainant, and implemented procedures to verify consent for collection of personal information in the future.

Case Study 2.2.6: Privacy complaint about lawyer – finalised by investigation

The complainant became aware that their personal information had been inappropriately disclosed by a bank to a lawyer representing an opposing party in civil proceedings.

We investigated and conciliated the matter. The respondent apologised and made a \$10,000 payment to the complainant.

Case Study 2.2.7: Privacy complaint about breach of APP 3 – finalised by investigation

The complainant became aware that their personal information was collected by the respondent in contravention of APP 3.

We made preliminary inquiries regarding the complaint. In response, the respondent deleted the complainant's personal information on request, provided feedback and training to relevant staff members, and amended internal policies and procedures to ensure ongoing compliance with the Privacy Act.

Backlog project

Growth in privacy complaints over recent years led to a backlog of complaints carried through to 2019–20. At the start of the reporting period, the OAIC received additional funding to address that backlog. We reviewed our processes and employed additional staff in relevant teams. We also appointed additional conciliators.

We ensured the quality of our privacy complaint processes by:

- handling privacy complaints in line with our Privacy Regulatory Action Policy and Privacy Regulatory Action Guide
- undertaking regular staff training, including conciliations and investigation training, and administrative law training
- enabling staff to participate in complaint handling networks and events, including the Commonwealth Ombudsman's Complaint Handling Forum and Privacy Awareness Week activities
- reviewing evidence-gathering powers for making determinations by utilising the Commissioner's powers to obtain information under s 44 of the Privacy Act.

The backlog for incoming complaints was cleared by 31 January 2020 and the investigations backlog was cleared by the end of May 2020.

In February 2020, to further increase efficiency, we reviewed our conciliation processes and appointed external accredited mediators. Matters were sent directly from early resolution to conciliation. More formal (telephone) conciliations were conducted in 2019–20 than in previous years, leading to a higher number of privacy complaints being resolved more quickly and on terms acceptable to the parties involved.

Determinations

The Commissioner made 4 determinations during 2019–20, finding interferences with individuals' privacy. Two determinations related to historical cases of non-compliance with the National Privacy Principles and Information Privacy Principles, which applied prior to March 2014. The other 2 determinations related to cases involving breaches of the APPs.

In addition to providing outcomes for the particular complainants, the 2 more recent determinations provide insight into how APP 6, APP 11 and APP 12 apply to particular factual circumstances, as well as deterring APP entities from breaching the Privacy Act.

The Commissioner used a number of her declaration powers under s 52, including awarding compensation, requiring respondents to apologise to complainants for their wrongdoing and obliging respondents to perform certain acts of redress.



Case Studies: Privacy complaints – finalised by determination

Case Study 2.2.8: Privacy complaint about disclosure of medical information

A medical practice disclosed sensitive medical information to the wrong email address in circumstances where the complainant suffered significant psychological and emotional harm. The respondent was found to have breached APP 6 as it disclosed personal information for a purpose secondary to the purpose for which it was collected, without the complainant's consent. The respondent was also found to have breached APP 11, as it failed to take reasonable steps to protect the personal information that it holds from unauthorised disclosure.

The Commissioner awarded compensation of \$10,000 and \$3,000 to each complainant for pain and suffering and awarded compensation of \$3,400 to reimburse one complainant for costs associated with psychological treatment.

Case Study 2.2.9: Privacy complaint about breach of National Privacy Principle 1.3

A company that provided information services through the maintenance of a public record database collected the personal information of the complainant in breach of the National Privacy Principles, by failing to take any reasonable steps to advise the complainant of relevant matters, including the purposes for which the information was collected and the organisations to which it was usually disclosed.

The Commissioner awarded compensation of \$1,500 for pain and suffering. The Commissioner also declared that the respondent was required to apologise to the complainant and publish a notice outlining the matters required by National Privacy Principle 1.3, including requiring it to publish a link to its privacy policy.

Indicator 2.3: Conducting Privacy Commissioner-initiated investigations (CIIs)

Subsection 40(2) of the Privacy Act allows the Commissioner to investigate, on the Commissioner’s own initiative, an act or practice that may be an interference with privacy. This power is used to investigate possible interferences with privacy that are of concern but are not in direct response to an individual privacy complaint.

During this reporting period, preliminary inquiries and/or an investigation was opened in 19 CII matters.

We closed 21 CIIs during the reporting period, including 10 matters that were opened in 2019–20. This included closing a CII into the acts and practices of Facebook Inc. and Facebook Ireland, in relation to allegations that the personal information of Australian Facebook users had been improperly collected by third-party applications, and lodging Federal Court civil penalty proceedings (see Case Study 2.3.1 on page 41). At 30 June 2020, there were 19 ongoing matters, with 9 from 2019–20 ongoing. In addition, 10 matters were ongoing from previous years including 2 from 2018–19.



Measure

Time taken to finalise privacy CIIs.



Target: 80% of privacy CIIs are finalised within 8 months

Not achieved.

The OAIC’s average time to finalise privacy CIIs during 2019–20 was 9.9 months, reflecting an increase in the volume of privacy CIIs commenced and finalised during 2019–20 and our efforts to progress our backlog of older investigations.

During the reporting period, the OAIC commenced 27% more privacy CIIs and finalised 200% more privacy CIIs than the previous financial year. We finalised 38% of CIIs within 8 months.

Commissioner-initiated investigations

A Commissioner-initiated investigation (CII) is conducted in response to the identification of a significant risk.

The primary objective in undertaking a CII is to improve the privacy practices of investigated entities and the regulated community generally. CIIs address systemic issues in personal information handling to instil public confidence in the protection of personal information.

Where an individual has suffered compensable loss or damage, they may make a complaint under s 36 of the Privacy Act (see Indicator 2.2 on page 35).

Table 2.3.1: Privacy CIIs opened and closed

Year	Number of CIIs opened	Number of CIIs closed
2017–18	21	18
2018–19	15	7
2019–20	19	21



Case Study: CII – Facebook Inc. and Facebook Ireland

Case Study 2.3.1: Disclosure of personal information to the ‘This Is Your Digital Life’ app

In March 2020, the Commissioner lodged proceedings against US-based Facebook Inc. and Facebook Ireland in the Federal Court of Australia, alleging the social media platform had committed serious and/or repeated interferences with privacy under s 13G of the Privacy Act, and applying for a civil penalty.

The Commissioner alleges that in the period 12 March 2014 to 1 May 2015, Facebook Inc. and Facebook Ireland disclosed the personal information of Australian Facebook users to a third-party app, the ‘This Is Your Digital Life’ (TIYDL) app, in breach of APP 6. The Commissioner also alleges that both Facebook entities did not take reasonable steps during this period to protect their users’ personal information from unauthorised disclosure, in breach of APP 11.

The proceedings follow a CII commenced in April 2018 after media reports that the developer of the TIYDL app had sold Facebook user data to Cambridge Analytica, a data analytics firm, for political campaigning purposes. These reports generated significant, sustained public interest.

Shortly after these reports, Facebook publicly confirmed that the Facebook information of up to 87 million people, including up to 311,127 Australians, may have been improperly shared. This figure included individuals who had directly installed the TIYDL app, and individuals whose data may have been shared by their Facebook friends.

The Commissioner concluded the CII following the commencement of Federal Court proceedings, as she was satisfied that further investigation of the acts or practices that were the subject of those proceedings was not warranted in the circumstances.

This is the first time that the Commissioner has commenced proceedings alleging serious and/or repeated interferences with privacy and seeking a civil penalty for breach of those provisions. The Federal Court can impose a civil penalty of up to \$1.7M for each serious and/or repeated interference with privacy (as per the penalty rate applicable in 2014–15).

The proceedings are ongoing.

Indicator 2.4: Handling privacy data breach notifications



Measure

(1) Time taken to finalise data breach notifications (DBNs).



Target: 80% of DBNs are finalised within 60 days

Not achieved.

We:

- finalised 62% of notifications received under the Notifiable Data Breaches (NDB) scheme within 60 days
- finalised notifications received under the NDB scheme in an average of 77 days.



Measure

(2) Time taken to finalise My Health Record DBNs.



Target: 80% of My Health Record DBNs are finalised within 60 days

Not achieved.

We finalised 57% of My Health Record DBNs within 60 days.

Notifiable Data Breaches scheme

The Notifiable Data Breaches (NDB) scheme commenced on 22 February 2018. Under the scheme, Australian Government agencies and private sector organisations with obligations under the Privacy Act must notify individuals who are likely to be at risk of serious harm as a result of a data breach. They must also notify the OAIC.

Our responsibilities under the NDB scheme include:

- receiving notifications of eligible data breaches
- encouraging compliance with the NDB scheme, including handling complaints and taking regulatory action in response to instances of non-compliance
- offering advice and guidance to regulated entities and informing the community about how the NDB scheme operates
- responding to instances of non-compliance with the requirements of the NDB scheme.

The OAIC reviews every notice received under the NDB scheme to ensure the notifying entity has met its obligations under the scheme. This includes considering whether the notifying entity has:

- taken steps to contain the breach
- assessed whether the breach is likely to result in serious harm to individuals whose personal information was exposed
- taken steps to mitigate the risk of serious harm resulting from the breach
- provided appropriate notification to the OAIC and to affected individuals on the details of the breach and the steps that individuals can take to mitigate the risk of serious harm arising from the breach.

The Commissioner's powers under the NDB scheme include the discretion to direct an entity to notify individuals of eligible data breaches or declare that notification does not need to occur or can be delayed.

In 2019–20, the NDB scheme saw an 11% increase in the number of data breach notifications, compared to 2018–19.

The OAIC published the *Notifiable Data Breaches Report: July–December 2019* in February 2020 and the *Notifiable Data Breaches Report: January–June 2020* in July 2020. These reports provide government and industry with insights into trends in data breaches and assist in improving awareness and understanding of data breach risks and steps that entities can take to prevent them occurring.

The OAIC's data breach reports also highlight emerging issues and areas for ongoing attention by entities entrusted with protecting personal information.

Voluntary data breaches

Prior to the introduction of the NDB scheme, the OAIC administered a voluntary data breach notification scheme. This scheme allowed organisations and agencies to self-report possible data breaches to us. We have continued to register voluntary data breach notifications for incidents that do not fall within the scope of the NDB scheme. These included incidents that did not meet the threshold of the NDB scheme, and data breaches that did not involve entities regulated by the NDB scheme.

In 2019–20, there was a 33% decrease in voluntary data breaches reported to the OAIC in comparison to 2018–19.

In a number of voluntary notifications received by the OAIC during this period, the notifying entity advised they were aware that the data breach fell below the threshold of the NDB scheme but notified the OAIC in the interests of full transparency.

The OAIC also administers a mandatory notification scheme for digital health data breaches. For more information see the *Annual Report of the Australian Information Commissioner's Activities in Relation to Digital Health 2019–20*.

Table 2.4.1: NDB, voluntary and mandatory My Health Record notifications received

Year	2017–18	2018–19	2019–20
Notifiable data breaches	305	950	1,050*
Voluntary notifications	174	175	125
Mandatory notifications (<i>My Health Records Act 2012</i>)	28	35	1
Total	507	1,160	1,176

* Where data breaches affect multiple entities, we may receive multiple notifications relating to the same data breach. Notifications to us about the same data breach incident are counted as a single notification in this number. End-of-year statistics may differ from 6-monthly publication statistics.



Case Studies: Notifiable Data Breaches scheme

Case Study 2.4.1: Notifiable data breach – human error

An employee of an organisation accidentally sent an email containing personal information about job applicants to other job applicants who were unintended recipients of the email.

The personal information disclosed included names, dates of birth, addresses and information about job applications.

On discovering the incident, the organisation took immediate steps to contain the breach. This included contacting the unintended recipients by email and telephone to request deletion of the email. The organisation received confirmation from

all the unintended recipients that they had deleted and disregarded the email.

The organisation notified the affected individuals of the data breach and engaged IDCARE to provide specialist counselling and guidance to the affected individuals.

To prevent reoccurrence of a similar data breach, the organisation took a range of steps including undertaking further security and awareness training of staff and encouraging the use of colleagues and support services for checking.

Case Study 2.4.2: Notifiable data breach – cyber incident

As a result of a phishing attack, an organisation discovered that a number of its employees' email accounts had been accessed without authorisation.

The attacker(s) then impersonated one of the employees and sent emails to a range of the organisation's internal and external stakeholders, requesting credentials or payment of invoices.

In response to the incident, the organisation provided tailored notification to all affected individuals on recommended steps to mitigate their risk of serious harm to reflect the type(s) of personal information involved in relation to each individual.

The organisation established a dedicated call centre to provide support to affected individuals. It also engaged credit reporting bodies to provide free credit monitoring services to affected individuals to protect them from identity theft and credit fraud.

To prevent reoccurrence of a similar data breach, the organisation took a range of steps including introducing multifactor authentication and implementing further security software on every employee's email account to filter potential phishing emails from the external emails received by its employees.

Indicator 2.5: Providing an Information Commissioner (IC) review function



Measure

Time taken to complete IC reviews.



Target: 80% of IC reviews are completed within 12 months

Not achieved.

We finalised 72% of IC reviews within 12 months. A significant increase in the number of IC review applications and our focus on reducing the number of cases over 12 months old prevented us from reaching our target of finalising 80% of IC reviews within 12 months.

During this reporting period we recorded another significant increase in IC review applications, receiving 1,066 – a 15% increase over 2018–19 (when 928 were received). Despite this ongoing increase, we finalised 829 IC reviews in 2019–20 (a 26% increase over 2018–19, when we finalised 659 IC reviews).

IC reviews

An IC review is a review of a decision made by an Australian Government agency or minister subject to the FOI Act, including a decision:

- refusing to grant access to a document wholly or in part, including when an agency has been taken to refuse access because it has not made a decision within the statutory timeframe
- that a requested a document does not exist or cannot be found
- granting access to a document where a third party has a right to object (for example, if a document contains their personal information)
- to impose a charge for access to a document, including a decision to refuse to waive or reduce a charge
- refusing to amend or annotate a record of personal information.

We achieved an increase in the number of finalised IC reviews in this reporting period through a consistent focus on early intervention or informal resolution where possible. We used our regulatory powers under the FOI Act to issue notices to agencies under s 55E (to provide an adequate statement of reasons) and s 55R (notice to produce information or documents). We used various approaches to help resolve an IC review, such as narrowing the scope of a review, providing an appraisal or preliminary view, and assisting parties to reach agreement. In 2019–20, we finalised 777 IC reviews without a formal decision being made under s 55K (94%).

We finalised 154 IC reviews (19%) after the applicant withdrew their application following action taken by the agency to resolve the issues in the IC review (such as issuing a decision and statement of reasons in a deemed access refusal case, or by making a revised decision under s 55G of the FOI Act to give the applicant access to further documents or material), or after receiving our appraisal of their application's merits.

We also finalised 29 IC reviews by written agreement between the parties under s 55F of the FOI Act.

The Information Commissioner made 50 IC review decisions under s 55K of the FOI Act (which are published on AustLII).

Of these:

- 19 decisions (38%) set aside and substituted the decision under review
- 7 decisions (14%) varied the decision under review
- 24 decisions (48%) affirmed the decision under review.

These decisions help agencies interpret the FOI Act and provide guidance on the exercise of their powers and functions by addressing novel issues and building on existing IC review decisions.

Case Studies 2.5.1 and 2.5.2 describe IC review decisions made during this reporting period.

For more information see Appendix E.



Case Study: IC review – Department of Home Affairs

Case Study 2.5.1: RO and Department of Home Affairs (Freedom of Information) [2020] AICmr 3 (19 January 2020)

The applicant applied to the Department of Home Affairs (the Department) for access to Australian Government policy, procedures, rules, guidelines and manuals used by case officers for processing and determining the grant or refusal of Class 600 visitor visas by case officers at the Australian High Commission in Pretoria, South Africa. The Department gave the applicant access to three documents in full.

The Information Commissioner was not satisfied that the Department took all reasonable steps to find documents within the scope of the applicant's request as it was required to under s 24A of the FOI Act. The Information Commissioner was satisfied that the Department interpreted the scope of the applicant's request too narrowly by limiting it to documents used in determining the grant or refusal of visitor visa applications relating to the applicant personally. The applicant's request was not expressly limited.

The Information Commissioner set aside the Department's decision. The Department was required to undertake further searches for documents within the scope of the applicant's request.



Case Study: IC review – Civil Aviation Safety Authority

Case Study 2.5.2: Microflite Helicopter Services and Civil Aviation Safety Authority (Freedom of information) [2020] AICmr 9 (26 February 2020)

An applicant applied to the Civil Aviation Safety Authority (CASA) for access to documents regarding the process taken to investigate concerns raised by the FOI applicant regarding possible low-flying helicopters filming the 2018 Adelaide 500 Supercars event.

CASA undertook third-party consultation with Microflite in relation to 2 documents under s 27 of the FOI Act. Microflite objected to the disclosure of both documents on the basis that disclosure would adversely affect it in respect of its lawful business affairs; and would disclose information having commercial value that would be, or could reasonably be expected to be, destroyed or diminished if the information were disclosed. CASA decided to release to the FOI applicant one document in full and refuse access to one document in full. In making its decision, CASA relied upon ss 47(1)(b) and 47G of the FOI Act.

Microflite then sought IC review of CASA's decision to release one document in full to the FOI applicant (access grant decision).

The Information Commissioner was not satisfied that the information could be considered to have commercial value as required by s 47(1)(b) because the information was not current; related to a particular commercial operation that had concluded; and was general rather than technical in nature. The Information Commissioner also considered that it would be unlikely that a genuine arms-length buyer would pay for the information.

The Information Commissioner affirmed the access grant decision.

Indicator 2.6: Handling FOI complaints



Measure

Time taken to finalise FOI complaints.



Target: 80% of FOI complaints are finalised within 12 months

Not achieved.

During the reporting period, we finalised 71 FOI complaints, compared with 22 in 2018–19, an increase of 223%.

We finalised 52% of FOI complaints within 12 months in 2019–20. The majority of the complaints finalised were received in 2017–18 and 2018–19 which impacted on our ability to finalise 80% of all FOI complaints within 12 months.

In 2019–20, we received 109 FOI complaints. This represents a 79% increase in complaints received compared with 2018–19 (when 61 FOI complaints were received).

Of the 71 complaints finalised this year, 29 proceeded to finalisation under s 86 of the FOI Act. Of the complaints that proceeded to finalisation under s 86, the Information Commissioner made a total of 51 recommendations under s 88 of the FOI Act (which requires agencies to implement recommendations made by the Information Commissioner).¹

¹ A complaint may have a number of issues.

FOI complaints

Under s 69 of the FOI Act, the Information Commissioner has power to investigate agency actions about the handling of FOI matters.

Part 11 of the FOI Guidelines explains that where IC review is available, it is the Information Commissioner's view that making an FOI complaint is not the appropriate mechanism to resolve the matter, unless there is a special reason to undertake an investigation.

This approach supports an individual's right to access information where the outcome sought by the person is more closely related to the merits review function.

Indicator 2.7: Conducting Commissioner-initiated investigations (FOI)



Measure

Time taken to finalise CIIs (FOI).



Target: 80% of CIIs (FOI) are finalised within 8 months

Not achieved.

No CIIs (FOI) were finalised in 2019–20.

Under s 69(2) of the FOI Act, the Information Commissioner may, on her own initiative, commence an investigation into an action taken by an agency in performing functions or exercising powers under the FOI Act.

During 2019–20, the Information Commissioner commenced one investigation on her own initiative into the Department of Home Affairs' compliance with the statutory processing period in the FOI Act when processing FOI requests for non-personal

information. The decision to commence a CII was a result of several factors including the OAIC receiving a number of FOI complaints and IC review applications related to the Department's compliance with statutory timeframes for processing requests for non-personal information.

The CII remains ongoing.

Indicator 2.8: Targeted monitoring, guidance and advice provided



Measure

Submissions, guidance, advice and monitoring provided that effect change to protect privacy and access to information rights.



Target: Qualitatively demonstrated

Achieved.

During this reporting period, we regularly engaged with business and Australian Government agencies, providing advice and guidance on how to comply with the Privacy Act and protect privacy. This included advice on the Trusted Digital Identity Framework, privacy aspects of the 2021 Census, credit reporting issues as a result of COVID-19, and the application of the Privacy Act to the Australian Institute of Aboriginal and Torres Strait Islander Studies' collection.

We published new guidance on Privacy Impact Assessments (PIAs), including a PIA Tool, and guidance on assessing privacy risks in changed working environments. We also published guidance to assist the Australian community to understand the rights and responsibilities related to the COVIDSafe app, and for agencies and businesses to understand their privacy obligations while the Australian Bushfires Disaster Emergency Declaration is in force under the Privacy Act until its expiry on 20 January 2021.

We drafted 22 submissions on issues including the Consumer Data Right, credit reporting, artificial intelligence, the mandatory data retention regime, Australia's 2020 Cyber Security Strategy, proposed data sharing and release legislative reforms, and customer loyalty schemes.

We monitored proposed enactments and provided advice to Australian Government agencies about how to improve privacy protections in draft legislation or policy proposals.

The OAIC has been consulted on, and has made submissions and provided comment about, a range of government measures with the potential to impact on the rights of the public to access government-held information. This includes making submissions on the impact that proposed legislation will have on information access rights, and on reports and draft guidelines issued by other Australian Government agencies and state counterparts.

In 2019–20, the OAIC revised several parts of the FOI Guidelines, including Part 3: Processing and deciding on requests for access, Part 4: Charges for providing access, Part 10: Review by the Information Commissioner, and Part 12: Vexatious applicant declarations. We also delivered a range of new and updated resources to help agencies comply with the FOI Act, including guidance on taking all reasonable steps to find documents, guidance on processing requests during the COVID-19 pandemic, sample notices and updated SmartForms.

Privacy assessments

During this reporting period, the OAIC assessed privacy practices in the government, finance, telecommunications, health and education sectors, with 55 entities assessed and 14 assessments closed in the reporting period.

Our assessments ranged in scope from obligations under APP 1 (open and transparent management of personal information) and APP 5 (notification of the collection of personal information) to APP 11 (security of personal information).

We used a range of methods to conduct our assessments, such as desktop reviews, SmartForm privacy assessment surveys, comprehensive review of policy documents, interviews with staff, and site inspections (see Case Study 2.8.1 on page 49 and Case Study 2.8.2 on page 51). With the exception of one recommendation, the businesses and government agencies we assessed accepted all our recommendations which is consistent with last financial year. In the remaining case, the entity agreed with the intent of the recommendation but believed the risk was mitigated through other activities.

Government

ACT Government MOU

Under our Memorandum of Understanding (MOU) with the ACT Government we finalised our assessments of 10 ACT Government agencies, and Housing and Community Services ACT, publishing the reports in December 2019 and June 2020 respectively. For more information see Appendix C.

In 2019–20 we commenced an assessment of Access Canberra which we will finalise in 2020–21.

Unique Student Identifiers

In 2019–20, we finalised our assessment of how the Unique Student Identifiers (USI) Office, acting

on behalf of the Student Identifiers Registrar, managed privacy controls for the USI Transcript Service. We published this report in August 2019. This assessment commenced in 2018–19, under our MOU with the Department of Education and Training acting through the Student Identifiers Registrar.

COVIDSafe assessments

In May 2020, in response to the COVID-19 pandemic, the *Privacy Amendment (Public Health Contact Information) Act 2020* expanded our assessment powers to include the power to conduct an assessment of whether the acts or practices of an entity or a state or territory health authority comply with Part VIIIA of the Privacy Act in relation to COVIDSafe app data. In 2019–20 we commenced the first of a series of assessments in relation to the COVIDSafe app. We will finalise this assessment in 2020–21.

Digital health assessments

Health information is considered particularly sensitive. This sensitivity has been recognised in the *My Health Records Act 2012* and *Healthcare Identifiers Act 2010*, which regulate the collection, use and disclosure of personal information, and give the Information Commissioner a range of enforcement powers. This sensitivity is also recognised in the Privacy Act which treats health information as ‘sensitive information’.

We initiated 1 assessment with 2 targets relating to the My Health Record system in 2019–20 and we closed 4 assessments, 2 of which began in the previous financial year and 2 of which began in 2017–2018. One assessment which began in 2018–19 remains open. For more information see the *Annual Report of the Australian Information Commissioner’s Activities in Relation to Digital Health 2019–20*.



Case Study: Privacy assessment – Passenger Name Record

Case Study 2.8.1: Privacy assessment of Department of Home Affairs' use of PNR data

The *Agreement between the European Union and Australia on the processing and transfer of Passenger Name Record data by Air Carriers to the Australian Customs and Border Protection Service* (the Agreement) governs the transfer of Passenger Name Record (PNR) data to Australia from the European Union (EU). The Department of Home Affairs (Home Affairs) receives EU PNR data from air carriers when the information necessary for processing or controlling a passenger's air travel reservation for a flight to, from, or through Australia is processed in the EU.

Importantly, the Agreement also sets out oversight and accountability arrangements for parties to the Agreement in relation to that PNR data, including oversight by the Australian Information Commissioner (Article 10, para 1) through regular formal audits of all aspects of Home Affairs' EU-sourced PNR data use, handling and access policies and procedures.

To assure Home Affairs' compliance with the Agreement, we undertook a privacy assessment of Home Affairs under s 33C(1)(a) of the Privacy Act and in accordance with the Memorandum of Understanding (MOU) between Home Affairs and the OAIC.

This privacy assessment sought to establish whether Home Affairs is using and disclosing PNR data in accordance with its obligations under APP 6, and whether it is taking reasonable steps to secure the personal information it holds under APP 11.

In particular, we considered Home Affairs' APP 6 and APP 11 obligations in relation to the connected information environment (CIE) that Home Affairs is developing. The CIE is a project designed to enhance Home Affairs' intelligence capabilities. We focused primarily on the entity search capabilities that form part of the CIE.

To undertake the privacy assessment, we reviewed relevant policies and procedures provided by Home Affairs before and after assessment fieldwork, and conducted fieldwork, which included interviewing key members of staff and reviewing further documentation at the Home Affairs office in Canberra on 26 March 2018.

Our assessment identified several medium-level privacy risks in relation to the handling of PNR data and we made 5 recommendations for Home Affairs to take action to rectify those risks. The OAIC also made an additional suggestion to assist Home Affairs to enhance the privacy protective measures it employs. We published the assessment report on 19 December 2019.

Data matching

We perform several functions to help government agencies understand their privacy requirements and adopt best privacy practice when undertaking data-matching activities.

Data matching is the process of bringing together data sets that come from different sources and comparing those data sets with the intention of producing a match. Several government agencies use data matching to detect non-compliance, identify instances of fraud and recover debts owed to the Australian Government. For example, to identify individuals or businesses that may be under-reporting income or turnover, the Australian Taxation Office (ATO) may match tax return data with the data provided by banks.

Government agencies that carry out data-matching activities must comply with the Privacy Act. The *Data-matching (Assistance and Tax) Act 1990* (Data-matching Act) authorises the use of tax file numbers in data-matching activities undertaken by specific agencies. Data matching raises privacy risks because it involves analysing personal information about large numbers of people, the majority of whom are not under suspicion of non-compliance.

Statutory data matching

The Information Commissioner has statutory responsibilities under the Data-matching Act. The Data-matching Act authorises the use of tax file numbers in data-matching activities by the Department of Human Services (DHS), the

Department of Veterans' Affairs and the ATO.² In previous financial years, we have inspected DHS's data-matching records to make sure they comply with the requirements of the Data-matching Act. Agencies continue to rely less on data matching using tax file numbers, so this financial year we again focused on providing advice and oversight of data-matching activities outside the Data-matching Act.

In 2019–20, we finalised our assessments of the Non-Employment Income Data Matching (NEIDM) program and the Pay-As-You-Go (PAYG) program, both commenced in 2017–2018.

During this reporting period we also finalised a privacy assessment which looked at the role of the ATO as a source of data for DHS's data-matching activities. Specifically, the assessment looked at whether the ATO is taking reasonable steps under APP 11 to secure personal information handled by the PAYG and NEIDM programs.

Data matching under the voluntary guidelines

We administer the Guidelines on data matching in Australian Government Administration, which are voluntary guidelines to help government agencies adopt appropriate privacy practices when undertaking data-matching activities not covered by the Data-matching Act. In this financial year we reviewed 10 data-matching program protocols submitted by matching agencies including Services Australia and the ATO. We also provided advice on 3 occasions regarding protocols generally to the Fair Work Ombudsman and Services Australia.

² On 1 February 2020 DHS became Services Australia.



Case Study: Privacy assessment – telecommunications service providers

Case Study 2.8.2: Privacy assessment of the compliance of Telstra, Optus, Vodafone and TPG with information security obligations

We have conducted a series of privacy assessments of 4 telecommunications service providers: Telstra, Optus, Vodafone and TPG. We conducted the fieldwork component of the assessments of Telstra and TPG in the 2017–18 financial year, and of Optus and Vodafone in the 2018–19 financial year. We published a summary assessment report on 6 February 2020.

These assessments considered whether the telecommunications service providers were meeting their information security obligations under APP 11 — Security of Personal Information, for the personal information they are required to retain under the ‘data retention scheme’ (DRS). The DRS came into full effect on 13 April 2017. The DRS requires telecommunications service providers to retain certain types of telecommunications data for a minimum of 2 years (retained data), and to comply with the Privacy Act in relation to that data. In practice, this means that service providers participating in the DRS have information security obligations in general to:

- protect the confidentiality of their retained data through encryption, and from unauthorised interference and access, in accordance with the *Telecommunications (Interception and Access) Act 1979*
- take such steps as are reasonable in the circumstances to protect retained data from misuse, interference and loss, as well as unauthorised access, modification or disclosure, in accordance with APP 11 in Schedule 1 to the Privacy Act.

The assessments were risk-based and focused on identifying privacy risks to the secure handling of personal information. They involved a review of

documentation that set out relevant policies and practices of telecommunications service providers, site visits, and interviews with key staff.

The assessments found that, in general, the information security practices of service providers aligned with the obligations under APP 11. However, 3 of the 4 service providers had not created detailed rules for the destruction or de-identification of retained data after the mandatory 2-year retention period (which had not yet passed at the time of the assessments). We noted that the creation of detailed policies and rules in this area will be increasingly important for all service providers with obligations under the DRS, as the volumes of retained data increase over time.

Privacy advice

The OAIC made 22 submissions in 2019–20 covering a wide range of topics including submissions to:

- ACMA regarding Telecommunications (Mobile Number Pre-Porting Additional Identity Verification) Industry Standard 2020
- ACCC regarding the BP Rewards, Qantas Frequent Flyer and Qantas Business Rewards loyalty program
- the Senate Standing Committee on Legal and Constitutional Affairs regarding the Inquiry into the provisions of the Anti-Money Laundering and Counter-Terrorism Financing and Other Legislation Amendment Bill 2019
- ACCC regarding the customer loyalty schemes review
- Department of Health regarding the Exposure Draft: Health Legislation Amendment (Data-matching and Other Matters) Bill 2019
- Independent National Security Legislation Monitor regarding the *Telecommunications and Other Legislation Amendment (Assistance and Access) Act 2018*
- Australian Government regarding the Digital Platforms Inquiry final report

- Parliamentary Joint Committee on Intelligence and Security regarding the review of the amendments made by the *Telecommunications and Other Legislation Amendment (Assistance and Access) Act 2019*.

The OAIC has published a suite of guidance for regulated entities and individuals relating to personal information handling practices during the COVID-19 pandemic. For more information see Table 2.10.1 on page 58.

FOI Guidelines

In 2019–20, the OAIC revised and reissued Part 3: Processing and deciding on requests for access, Part 4: Charges for providing access, Part 10: Review by the Information Commissioner, and Part 12: Vexatious applicant declarations of the FOI Guidelines.

FOI agency resources

During 2019–20, we published a range of new and updated resources to assist Australian Government agencies to comply with the FOI Act. These resources included:

- Processing FOI requests: taking all reasonable steps to find documents (new)
- Making a decision on an FOI access request (updated)
- Statement of reasons checklist (updated)
- Sample FOI notice – access refusal decision (updated)
- Sample FOI notice – internal review decision (updated)
- How far should an agency search for a document? (updated FAQ).

To help agencies process FOI requests during the COVID-19 pandemic, the OAIC issued advice on how to continue to make decisions on FOI requests within the statutory timeframes in the FOI Act.

We also updated our FOI SmartForms to make it easier for agencies to apply for extensions of time to process FOI requests.

Indicator 2.9: Provide a public information service



Measure

Time taken to finalise written enquiries.



Target: 90% of written enquiries are finalised within 10 working days

Not achieved.

The OAIC offers a free public information service on privacy-related matters. Our service is delivered through handling phone and written enquiries.

The enquiries team moved to working remotely from 25 March 2020 in response to the COVID-19 pandemic and the OAIC's Enquiries Line changed from an anonymous call-in service to a voicemail/call back service. This change impacted on the percentage of written privacy enquiries finalised within 10 working days. In 2019–20 we finalised 76% of written privacy enquiries within 10 working days, down from our 2018–19 response rate of 92%.

Privacy enquiries

During this reporting period, we answered 10,937 phone enquiries and responded to 3,893 written enquiries. We also responded to 12 in-person enquiries. The enquiries received from the community were in relation to a broad range of areas. More than 60% of all phone enquiries about privacy matters concerned the operation of the APPs. We also continued to receive a significant proportion of enquiries about credit reporting and the Notifiable Data Breaches scheme. We received 60 phone enquiries about spent convictions.

As a part of our MOU with the Australian Capital Territory (ACT) Government we continued to provide privacy services to ACT public sector agencies,

including responding to enquiries from the public about the *Information Privacy Act 2014* (ACT) and its Territory Privacy Principles. For more information see Appendix C.

Privacy enquiries by issue

During this reporting period the most common privacy enquiries we received were about access to an individual's own personal information (APP 12), exceptions to the APPs, followed by security of personal information (APP 11), and the use and disclosure of personal information (APP 6).

Table 2.9.1: Phone enquiries related to APPs

Issue raised in phone enquiry	Number
APP 1 — Open and Transparent Management of Personal Information	47
APP 2 — Anonymity and Pseudonymity	11
APP 3 — Collection of Solicited Personal Information	727
APP 4 — Dealing with Unsolicited Personal Information	10
APP 5 — Notification of the Collection of Personal Information	440
APP 6 — Use or Disclosure of Personal Information	788
APP 7 — Direct Marketing	82
APP 8 — Cross-Border Disclosure of Personal Information	42
APP 9 — Adoption, Use or Disclosure of Government Related Identifiers	14
APP 10 — Quality of Personal Information	62
APP 11 — Security of Personal Information	798
APP 12 — Access to Personal Information	1,051
APP 13 — Correction of Personal Information	115
Exceptions	844
General enquiries	1,589

Note

There may be more than one issue handled in an enquiry.

We also handled questions about other privacy issues, reflecting the broad range of matters the OAIC regulates. Table 2.9.2 categorises these enquiries.

Table 2.9.2: Phone enquiries on other privacy matters

Issue raised in phone enquiry	Number
Notifiable Data Breaches scheme	369
Credit reporting	296
Spent convictions	60
Data breach notification (voluntary)	54
Tax file numbers	26
Consumer Data Right or Open Banking	8
Data matching	7
My Health Record	4
Privacy codes	3
Healthcare Identifier	2
Privacy safeguards	2
Total	831

Note

There may be more than one issue handled in an enquiry.



Case Study: Privacy enquiry – collection of passport information

Case Study 2.9.1: Privacy enquiry – collection of passport information by airline

An individual advised the OAIC that they were concerned about providing a copy of their passport to an airline.

An enquiries officer advised that international companies with an Australian link are subject to the Privacy Act under s 5B. The Privacy Act regulates the handling of personal information by Australian Government agencies and many private organisations through the APPs.

Regulated entities may only collect information that is reasonably necessary to perform their tasks or operations. If information is collected for a specific purpose it can only be used or disclosed for that purpose unless the individual consents, or an exception applies. Entities must also take reasonable steps to ensure the information is kept securely and destroyed or de-identified when it is no longer being used.

The enquiries officer advised that if the individual believed the entity had not complied with its obligations under the Privacy Act they may make a privacy complaint as outlined on our website.

FOI enquiries

The OAIC handles enquiries from the public on FOI issues, including the IC review function.

During this reporting period, we experienced a 20% decrease in FOI enquiries from 2018–19. The OAIC answered 1,524 telephone calls and responded to 772 written enquiries about FOI.

Most enquiries were about the OAIC's jurisdiction (42%) and general processes for FOI applicants (40%), including how to make an FOI request or complaint, or seek review of an FOI decision.

Table 2.9.3: FOI enquiries by issue

Issue	Number
OAIC's jurisdiction	969
General processes	943
Agency statistics	275
Processing by agency	174
Access to general information	23
Access to personal information	10
Vexatious application	4
Information Publication Scheme	4
Amendment and annotation	3

Note

There may be more than one issue handled in an enquiry.

Indicator 2.10: Increase in community awareness and understanding of privacy and information access rights



Measure

(1) Visits to OAIC website.



Target: Increase in website traffic

Achieved.

The OAIC launched a new website on 22 July 2019. A high-level analysis of quantitative website data has shown that the OAIC website recorded an increase in visits from 2018–19 to 2019–20 and is providing content that is more relevant and engaging.

OAIC website visitors are viewing more pages, spending more time on those pages and 'bouncing' (leaving a page immediately without taking an action) less. Comparing website data for the 2019–20 financial year (new website) against 2018–19 (previous website):

- total site visits increased by 13% to 1,921,125
- bounce rate decreased by 12% to 54%
- average time on site increased by 20% to 3 minutes 20 seconds
- average page depth increased by 14% to 2.5 pages per visit.



Measure

(2) Social media engagement.



Target: Qualitatively demonstrated

Achieved.

The OAIC has grown its presence on social media in 2019–20 and it has been an important communication channel during the COVID-19 pandemic. We actively promoted awareness of privacy and information access rights through social media channels, resulting in increased followers, page likes and post impressions across Twitter, Facebook and LinkedIn.

Twitter

Growth has been steady through the year, with 5,837 followers as at 30 June 2020. This is a growth of 12%. During the reporting period we have achieved more than 1.2 million tweet impressions.

Facebook

Growth has been steady through the year, with 3,304 followers as at 30 June 2020. This is a growth of almost 15%.

LinkedIn

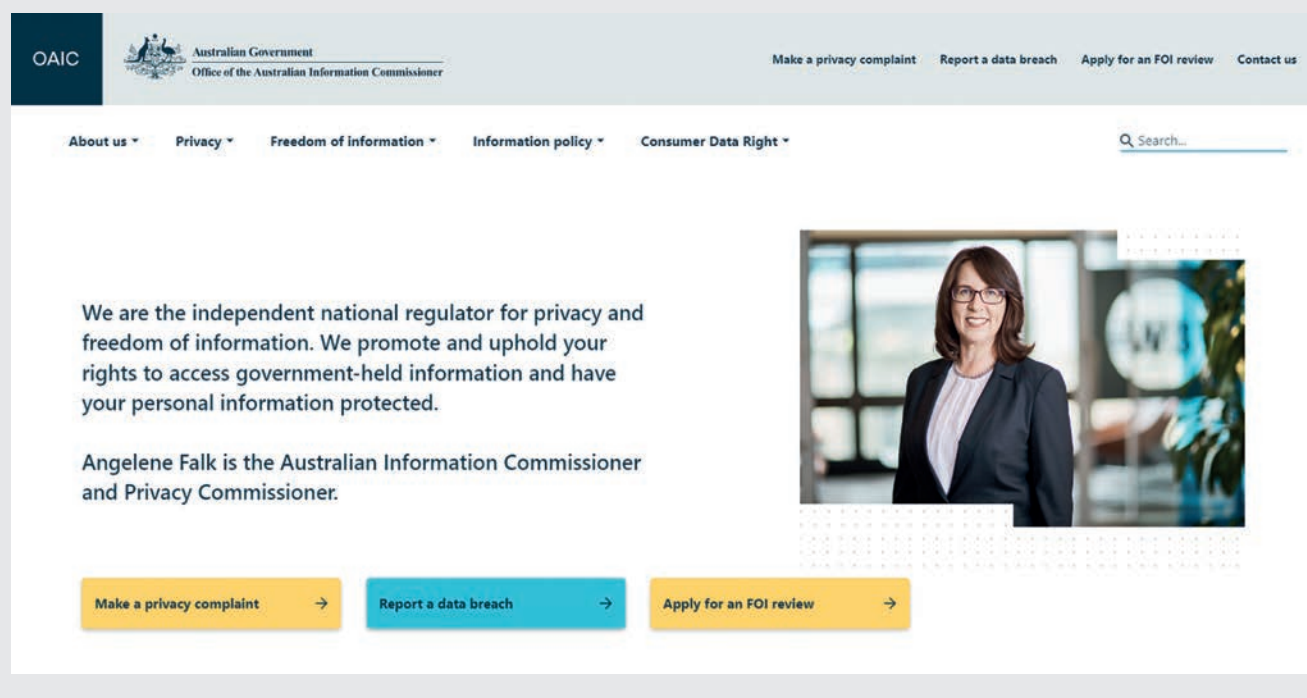
Our followers have grown rapidly through the year, with 3,593 followers as at 30 June 2020. This is a growth of over 50%.

New OAIC website

The OAIC website is a key communication channel to reach the community, government and business. Following development of the website in 2018–19 to make it easier to navigate and more user-friendly, we beta-tested the site in July 2019 to allow us to further refine the design.

The responses we received to the beta website testing were positive: 88% of users rated the content findable, 86% rated the content useful and 96% rated the website positively.

User feedback also noted improvements in the content (easier to understand, clear, concise and better organised) and user experience (ease of use, navigation, look and feel).



e-learning courses

The OAIC launched its new e-learning course *Privacy in Practice* on 17 April 2020, following user testing with staff from 30 Australian Government agencies. The module was developed to help staff understand the importance of privacy in their agency, and how to meet their privacy obligations in their day-to-day work.

The course can also assist agencies to meet privacy training obligations under the Australian Government Agencies Privacy Code. Several agencies have indicated they intend to include the course with induction training and as an annual refresher for staff who handle personal information.

Like the OAIC's first e-learning course *Undertaking a Privacy Impact Assessment* (launched in May 2017), *Privacy in Practice* is free and open to anyone to use. On average, about 100 people completed the course each week between its launch and the end of June 2020, including users from the government,

business, education, and community/not-for-profit sectors.

Feedback from users has been overwhelmingly positive, highlighting the clarity and conciseness of the content and examples, and the engaging and interactive nature of the course.

Privacy in Practice course snapshot

Privacy is central to the work of Australian Government agencies. If you work for an agency, the community trusts you to look after the valuable personal information that your agency holds. In your day-to-day work, you are required to handle personal information within the requirements of the Privacy Act.

This e-learning program aims to introduce you to the Privacy Act and provide you with practical advice and guidance on good privacy management practices within your agency. It is suitable for all Australian Government agency staff, especially if you handle personal information in your day-to-day work.

Welcome to Privacy in Practice
© TOTAL COURSE TIME: APPROXIMATELY 1 HOUR

Welcome to the Office of the Australian Information Commissioner's (OAIC) eLearning course for Australian Government agencies.

This course aims to introduce you to the Privacy Act 1988 (the Privacy Act) and provide you with practical advice and guidance on good privacy management practices.

Should I do this course?

The course is designed for Australian Government agencies covered by the Privacy Act and is suitable for all agency staff, especially those who handle personal information in their day-to-day work.

Contracted service providers for Commonwealth contracts may also find this course useful to understand the Privacy Act and the Australian Privacy Principles (APPs).

About this course

There are three modules in this course:

- Module 1 is an introduction to the Privacy Act and the key concepts
- Module 2 covers the handling of personal information
- Module 3 covers the ways your agency manages privacy issues.

Each module includes:

- learning objectives
- an introductory video
- course content
- learning activities to assess your knowledge

Privacy in Practice
MINIMISE NAVIGATION

0%
★

🔍 Welcome to Privacy in Practice

MODULE 1
Introduction to the Privacy Act and key concepts
Understanding privacy
Personal information
Consent

MODULE 2
Handling personal information
Understanding why you are handling it
When can you collect it?
Notifying individuals about collection
Using and disclosing it
Keeping it safe
Retaining and de-identifying it

MODULE 3
Understanding privacy in your agency
Personal privacy responsibilities
Key people
Important privacy documents
Privacy Impact Assessments
Data breaches

📄 Course recap and certificate

🔄 Restart the course

Undertaking a Privacy Impact Assessment course snapshot

A privacy impact assessment (PIA) is a systematic assessment of a project that identifies the impact that the project might have on the privacy of individuals, and sets out recommendations for managing, minimising or eliminating that impact. PIAs are an important component in the protection of privacy, and should be part of the overall risk management and planning processes of organisations and Australian Government agencies.

This e-learning program complements the OAIC's *Guide to undertaking privacy impact assessments*, and aims to give you information on conducting a PIA in an easy-to-understand format so that you can have the confidence to do a PIA in your organisation or agency.

Information Matters newsletter

Our monthly Information Matters e-newsletter goes to more than 7,700 subscribers. It provides news about the latest guidance and resources published by the OAIC, information about consultations and other engagement, and links to decisions and submissions.

Digital campaigns

Health privacy campaign

In September 2019 the OAIC brought together its guidance for health service providers into the *Guide to health privacy*. Unlike other sectors of the economy, all private health service providers are covered by the Privacy Act, and the sector is consistently the highest reporting sector under the NDB scheme.

To increase awareness of the sector's privacy obligations and promote better privacy practice, the OAIC ran a campaign to coincide with the guide's publication, including a news story, letters and emails to key stakeholders, and an external communications toolkit to support the promotion of the guide by third parties. We also ran a 10-week social media campaign, including 40 social media posts across Facebook, Twitter and LinkedIn. The post with the most engagement highlighted the importance of privacy training for health sector staff.

The campaign delivered coverage of the guide's publication in digital news outlets, as well as promotion by major health bodies and associations, including the Australian Commission on Safety and Quality in Health Care, Royal Australian College of General Practitioners and the Australian Medical Association.

Joint online shopping campaign

In the lead up to the Black Friday sales in November 2019 and the Christmas season, the OAIC ran a campaign to raise awareness of online shopping risks in collaboration with the Office of the eSafety Commissioner, the Australian Cyber Security Centre and the Australian Competition and Consumer Commission. As part of the campaign the OAIC led the delivery of creative assets for use by all 4 agencies.

The timeliness of the campaign and cross-promotion between agencies resulted in high engagement rates across social media channels.

COVID-19 resources

In April 2020 the OAIC added a prominent banner to its website to promote awareness of advice and guidance for individuals, agencies and organisations during the COVID-19 pandemic. The banner linked to the OAIC COVID-19 information page which was ranked 27th in page views for the April–June quarter.

The OAIC published 7 pieces of guidance and 7 media items in response to the pandemic, the COVIDSafe app and working from home during the second half of the reporting period.

Table 2.10.1: Guidance related to COVID-19 pandemic

Page	Publication date	Page views to 30 June 2020
Coronavirus (COVID-19): Understanding your privacy obligations to your staff	18 March 2020	15,874*
Assessing privacy risks in changed working environments: Privacy Impact Assessments	6 April 2020	3,375
Guidance for businesses collecting personal information for contact tracing	29 May 2020	2,046
The COVIDSafe app and my privacy rights	16 May 2020	1,794
How can agencies meet statutory timeframes during the COVID-19 pandemic?	18 March 2020	640
FOI and COVID-19 FAQs	30 April 2020	258
Privacy obligations regarding COVIDSafe and COVID app data	30 June 2020	8

* This was the 15th most viewed page at www.oaic.gov.au for the period ending 30 June 2020.

Events

In 2019–20, the OAIC participated in 25 speaking engagements. This was lower than 2018–19 due to the COVID-19 pandemic which resulted in some events being postponed or cancelled. We took part in the following external events:

- Australian Institute of Administrative Law's National Administrative Law Conference, Canberra, July 2019
- a panel discussion on 'Privacy in Health' for an International Association of Privacy Professionals event, Perth, September 2019
- National Cyber Security Education Conference, Sydney, September 2019
- keynote opening address for the International Association of Privacy Professionals Australia and New Zealand Summit, Sydney, October 2019
- Global Privacy Assembly/OECD 'Online Workshop on Addressing the Data Governance and Privacy Challenges in the Fight against COVID-19', April 2020
- Institute of Public Administration Australia's Work with Purpose podcast, June 2020.

Privacy in a pandemic webinar

For Privacy Awareness Week 2020, we partnered with OneTrust for a webinar exploring the importance of privacy in a pandemic which attracted almost 500 attendees. Commissioner Angelene Falk was joined by New Zealand Privacy Commissioner John Edwards, IDCare's Managing Director David Lacey, and Internet Initiative Japan Principal Consultant Taiji Miyaoka to discuss and explore the privacy implications of the pandemic. The webinar was held at a critical time as businesses and organisations around the world transitioned to remote work while seeking to promote good privacy practice.

Media enquiries

In 2019–20 we received 217 media enquiries which was a 9% decrease compared with the previous reporting period.

Table 2.10.2: Media enquiries received in 2019–20

Month	2018–19	2019–20
July	55	20
August	21	20
September	9	17
October	30	28
November	20	9
December	16	9
January	19	18
February	11	10
March	8	26
April	21	29
May	18	18
June	10	13
Total	238	217

Key focus area: Implement the Consumer Data Right

The OAIC is supporting the implementation of the Consumer Data Right (CDR) to provide greater choice and control for Australians over how their data is used and disclosed. We have worked with our co-regulator, the Australian Competition and Consumer Commission (ACCC), to implement the Consumer Data Right in the financial sector. We have worked to establish an effective privacy complaints system, and deliver guidance and education materials to support participants and consumers.

Indicator 2.11: Open Banking is implemented with strong privacy protections



Measure

(1) Project milestones met.



Target: 90% of project milestones achieved

Achieved.

The OAIC has a Consumer Data Right project plan, which sets out key deliverables and deadlines. Implementation is overseen by an internal CDR Governance Board.

By 30 June 2020, 96% of the project's milestones were achieved, including:

- publication of guidance and educational materials for consumers and regulated entities to support a clear understanding of rights and obligations under the Consumer Data Right
- processes to support efficient and effective Consumer Data Right complaint-handling
- internal training and resources to ensure our enquiries team is well equipped to answer questions from the public under the Consumer Data Right.



Measure

(2) Ongoing advice is provided and integrated into the scheme.



Target: Qualitatively demonstrated

Achieved.

On 1 July 2020, the Consumer Data Right (CDR) commenced in the banking sector (where it is called Open Banking).

In the lead up to 1 July 2020, the OAIC worked closely with the Treasury and the ACCC to ensure strong privacy and accountability measures have been built into the Consumer Data Right system. This included the provision of advice to the ACCC on the development of the rules. Many of the OAIC's recommendations were reflected in the rules made by the ACCC that entered into force on 6 February 2020.

We also engaged regularly with the Data Standards Body (CSIRO's Data61), including through the provision of advice on development work for the guidelines relating to consumer experience and attendance as observers on the Data Standards Advisory Committee meetings for the banking and energy sectors.

The OAIC continues to provide privacy advice to the Treasury and the ACCC regarding the implementation of the Consumer Data Right, including the roll out of the Consumer Data Right to the energy sector, the Inquiry into Future Directions for the Consumer Data Right, and guidance on general privacy matters affecting the Consumer Data Right system.

Indicator 2.12: The OAIC promotes awareness of CDR privacy rights



Measure

Education and awareness materials are developed and promoted.



Target: Qualitatively demonstrated

Achieved.

In preparation for the start of the Consumer Data Right on 1 July 2020, the OAIC developed and promoted a range of education and awareness materials to help consumers and regulated entities understand their privacy rights and obligations.

This includes information for consumers on how their data should be managed and protected, and how to complain to the OAIC if they consider an entity has mishandled their data.

The OAIC developed Privacy Safeguard Guidelines to provide guidance for participants in understanding and interpreting the 13 privacy safeguards under the Consumer Data Right. The OAIC finalised these guidelines following consultation with industry, the Treasury, the ACCC and other key stakeholders.

The OAIC also developed a CDR Regulatory Action Policy, which explains the agency's powers and how we will exercise them. A joint Compliance and Enforcement Policy was developed in partnership with the ACCC to outline the approach we intend to take to encourage compliance, and how we will respond to breaches of the regulatory framework.

Education and awareness materials were promoted through a dedicated section on the OAIC's website, media releases, Information Matters newsletters, and social media channels.

Indicator 2.13: Community uses complaints mechanism to protect their privacy rights



Measure

Complaint handling mechanism for the CDR is operational and actively used.



Target: Complaint volumes reflect awareness and accessibility of complaint handling mechanism

Not applicable.

Following publication of the *OAIC Corporate Plan 2019–20*, the start date for the Consumer Data Right in the banking sector moved from 1 February 2020 to 1 July 2020.

In preparation for the receipt and management of Consumer Data Right complaints, the OAIC liaised with the ACCC and with the Australian Financial Complaints Authority (as the recognised EDRS for the Consumer Data Right in the banking sector). The OAIC also developed a joint complaint handling tool, accessible to consumers via the cdr.gov.au website.

Strategic Priority 3

Encourage and support proactive release of government-held information

The OAIC develops initiatives that facilitate a proactive approach to providing access to government-held information. These promote better use of government-held information to support innovation and inform policy while ensuring appropriate privacy safeguards are in place.

Key focus area: Develop government capability

The OAIC works with Australian Government agencies to develop their capability in applying and understanding the objects of the FOI Act. We undertake proactive regulatory activity including providing guidance to promote greater access to government-held information.

We update our resources regularly to assist agencies and ministers to apply the FOI Act, and we actively promote the Information Publication Scheme (IPS) to support government transparency initiatives.

Indicator 3.1: Improvements in FOI review trends and FOI complaints trends



Measure

Number of FOI requests to government agencies and FOI complaints.



Target: Decrease (implementation underway)

Not achieved.

The number of FOI requests made to Australian Government agencies and ministers increased by 6% in 2019–20, when compared with 2018–19.

In 2019–20, the OAIC received 109 FOI complaints about actions taken by agencies when handling FOI requests. This is a 79% increase over 2018–19 when 61 FOI complaints were received.

The most common complaints about the handling of FOI requests by agencies continue to be about delays in processing. Other complaints include:

- problems with how agencies conduct consultation under practical refusal provisions
- problems with how agencies conduct third-party consultations
- transfer of requests under s 16 of the FOI Act
- imposition of charges to process FOI requests
- agencies' compliance with IPS and disclosure logs
- not acknowledging FOI requests within 14 days.

FOI processing statistics received from Australian Government agencies and ministers

Agencies and ministers must report FOI statistics to the OAIC every 3 months and at the end of the financial year.

These reports show the number of FOI requests received across Australian Government agencies increased by 6% from 38,879 in 2018–19 to 41,333 in 2019–20.³ This increase was experienced in both requests for personal information and other (non-personal) information; however, the increase in the number of other requests was more pronounced (20% higher than 2018–19) than personal requests (4% higher than 2018–19).

In 2019–20, 33,584 or 81% of all FOI requests were for documents containing personal information. This is lower than in previous years when between 82% (2017–18 and 2016–17) and 87% (2015–16) of all requests were for personal information.

In 2019–20, the Department of Home Affairs, Services Australia and the Department of Veterans' Affairs together continued to receive the majority of FOI requests (70% of the total). Of these, 95% were requests for access to personal information.

The percentage of FOI requests processed within the applicable statutory time period decreased from 83% in 2018–19, to 79% in 2019–20. There has been a decrease in timeliness of decision-making over the past 3 years from 2017–18 when 85% of all decisions were decided within the applicable statutory time period.

The percentage of FOI requests granted in full decreased from 52% of all requests in 2018–19 to

47% in 2019–20; the percentage granted in part increased from 35% in 2018–19 to 38%; and the percentage of requests refused increased from 13% of all FOI requests in 2018–19 to 15% in 2019–20.

The personal privacy exemption in s 47F of the FOI Act remains the most claimed exemption (38% of all exemptions claimed – the same as in 2018–19).

The total reported costs attributable to processing FOI requests in 2019–20 was \$63.91 million, a 7% increase on 2019–20 (\$59.85 million).

Australian Government agencies and ministers issued 3,803 notices advising of an intention to refuse a request for a practical refusal reason in 2019–20. This is a 71% increase on the number issued in 2018–19. Of these requests, 88% were subsequently refused or withdrawn; that proportion was 77% in 2018–19.

There was a 25% decrease in the total charges notified in 2019–20 and a 28% decrease in the total charges collected by Australian Government agencies (\$88,090).

The total number of entries added to agency website disclosure logs in 2019–20 (1,949) is 62% higher than 2018–19, when 1,200 new entries were added.

There was a 5% increase in internal review applications in 2019–20. Of the 890 internal review decisions, 442 (49%) affirmed the original decision, 138 (15%) set aside the original decision and granted access in full, 235 (26%) granted access in part, 13 (1%) granted access in another form, 14 (2%) resulted in lesser access and applicants withdrew 43 applications (5%) without concession by the agency. Agencies reduced the charges levied as a result of internal review in 4 reviews (1%).

³ Figures have been rounded to the nearest whole number. For more information see Appendix E: FOI statistics.

Indicator 3.2: Improvements in time taken to respond to FOI requests



Measure

FOI requests determined and processed within the applicable statutory time period.



Target: Increase percentage

Not achieved.

The number of FOI requests decided within the applicable statutory time period decreased from 83% in 2018–19 to 79% in 2019–20.

The standard timeframe to process an FOI request is 30 days. However, the FOI Act contains a number of extension of time provisions.

FOI extensions of time

The FOI Act sets out timeframes within which agencies and ministers must process FOI requests.

When an agency or minister is unable to process an FOI request within the statutory processing period, they may apply for an extension of time from the FOI applicant or the Information Commissioner.

If the applicant agrees to an extension of time in writing, the agency or minister must advise the Information Commissioner of the agreement to extend the statutory processing time as soon as practicable.

An agency or minister can apply to the Information Commissioner for an extension of the processing period if they can demonstrate that processing the FOI request will take longer than the statutory timeframe because it is voluminous or complex in nature (s 15AB of the FOI Act).

An agency or minister can also apply to the Information Commissioner for an extension of the processing period where they have been unable to process the request within the statutory timeframe, and are deemed to have made a decision refusing the FOI request (ss 15AC, 51DA and 54D of the FOI Act). See Tables 3.2.1 and 3.2.2.

Overall, we received 12% more applications for extensions of time during this financial year when compared with 2018–19. There was a significant increase in the number of extension of time applications made under s 15AC (174%) closed during this financial year compared to 2018–19.

When applying for extensions of time in the last 2 quarters of this year, agencies provided reasons why the FOI request could not be processed within the statutory timeframe which related to the COVID-19 pandemic. Reasons included the diversion of resources to frontline services.

An update to the extension of time online SmartForm, which is used by agencies to lodge applications for extensions of time with the OAIC, has assisted in the processing of extension of time applications.

Table 3.2.1: FOI extension of time (EOT) notifications and requests received and closed

Year	2017–18	2018–19	2019–20
Received	3,367	3,784	4,244
Closed	3,333	3,779	3,844

Table 3.2.2: FOI extensions of time (EOT) notifications and requests closed, by type

Request type	2017–18	2018–19	2019–20
Section 15AA (notification of EOT agreements between agency and applicant)	2,762	2,959	2,393
Section 15AB (request to OAIC by agency where voluminous or complex)	370	562	786
Section 15AC (request to OAIC by agency where deemed refusal decision)	122	178	492
Section 51DA (request to OAIC by agency for EOT for dealing with amendment/annotation request)	1	1	5
Section 54B (extension of the period to make an internal review request made by agency)	–	1	0
Section 54D (request to OAIC by agency for EOT where deemed affirmation on internal review)	38	37	80
Section 54T (request to OAIC for EOT for person to apply for IC review)	40	41	88
Total	3,333	3,779	3,844

Key focus area: Influence information management framework

The OAIC works with stakeholders to improve access to government information to support public participation and engagement and strengthen trust in government. We engage with ministers and agencies to promote understanding of obligations under the FOI Act and help ensure that FOI policy and practice continues to meet the expectations of the Australian community.

We are contributing to the third Open Government National Action Plan and we engage with our domestic and international counterparts to promote information access rights.

Indicator 3.3: More government-held information is published proactively



Measure

Information available on agency websites.



Target: Benchmark number of agency documents published under the IPS and disclosure logs

Partially achieved.

During 2019–20, the OAIC undertook a desktop review of agency compliance with the disclosure log requirements in s 11C of the FOI Act. The results of this survey are being finalised and will be published in 2020–21.

Work to benchmark the number of documents published by agencies under the IPS was not undertaken in 2019–20. Consideration is being given to undertaking this in 2020–21.

FOI vexatious applicant declarations

The Information Commissioner has the power to declare a person to be a vexatious applicant if she is satisfied that the grounds in s 89L of the FOI Act exist.

During 2019–20, the Information Commissioner received 3 applications from agencies under s 89K of the FOI Act seeking to have a person declared a vexatious applicant. One application was finalised in 2019–20, with a declaration being made under s 89K of the FOI Act. Two applications are ongoing.

Declarations are available in the Australian Information Commissioner (AICmr) database published on AustLII.

Information Publication Scheme

The OAIC continues to promote the Information Publication Scheme (IPS) to agencies to encourage the publication of a wide range of corporate information on agency websites. Our focus this year has been on emphasising that the IPS does not limit the information that can be published to only the information required to be published under s 8(2) of the FOI Act, but authorises the publication of any other information (see s 8(4) of the FOI Act). Proactively making more information available to the public has the potential to reduce the number of FOI requests made to Australian Government agencies.

In 2019–20, we produced an information resource for senior executives that highlights their critical role in setting the standard for their agency's compliance with its IPS requirements.

We also worked with the Attorney-General's Department to survey data champions in Australian Government agencies about their experience with and understanding of the IPS. The survey results will be used to inform future education activities.

Indicator 3.4: Increase in community awareness and understanding of information access rights



Measure

(1) Visits to OAIC website.



Target: Increase in website traffic

Achieved.

A high-level analysis of quantitative website data has shown that the OAIC website has recorded an increase in visits from 2018–19 to 2019–20 and is providing content that is more relevant and engaging. For more information see Indicator 2.10 on page 54.



Measure

(2) Social media engagement.



Target: Qualitatively demonstrated

Achieved.

The OAIC steadily grew its social media channels throughout 2019–20, including Twitter (12% follower growth), Facebook (almost 15% follower growth) and LinkedIn (over 50% follower growth). For more information see Indicator 2.10 on page 54.

Disclosure logs

During 2019–20, the OAIC undertook a desktop review of agency compliance with the disclosure log requirements in s 11C of the FOI Act. The results of this survey are being finalised and will be published in 2020–21.

Right to Know Day 2019

The OAIC's Right to Know Day 2019 campaign ran from 28 August to 1 October 2019, raising awareness about information access through a campaign website, digital promotion and an information session for members of the OAIC's Information Contact Officers Network (ICON).

The 2019 Right to Know Day campaign website hosted promotional materials, FOI videos, infographics with tips for applicants and agencies, and links to useful resources. A supporter toolkit was also distributed to help Australian Government agencies and ICON members mark Right to Know Day.

The OAIC issued a joint media statement with Association of Information Access Commissioners (AIAC) members to promote Right to Know Day and the importance of open government on Friday 27 September 2019.

An ICON information session held in Canberra on 24 September focused on the role of FOI practitioners in promoting accountability and

transparency. The session was attended by more than 50 officers from various Australian Government departments and agencies.

ICON information session, Canberra

"In Australia, we are focusing on promoting greater recognition that information gathered by government is a national resource and subject to appropriate safeguards, should generally be available to the public.

I note that Prime Minister Morrison spoke recently of the role of public servants in working for, and being ultimately responsible to, the community. From the OAIC's perspective, making information available is essential to building trust in the community, and you play a vital part in achieving that goal.

The flow of information between government and the community can also stimulate innovation to the economic and social advantage of the nation."

Australian Information Commissioner and Privacy Commissioner Angelene Falk, 24 September 2019.

Information Access Study 2019

In September 2019, Information Access Commissioners and Ombudsmen released the findings of the first cross-jurisdictional study of Australian community attitudes to access to government-held information. Commissioner Angelene Falk and her counterparts from NSW, Victoria, Queensland, Western Australia and the ACT sponsored the research as part of Australia's *Open Government National Action Plan 2018–20*.

The Information Access Study 2019 measured citizens' awareness of the right to access government information, and their experiences and outcomes in exercising that right. It provided a broad insight into citizens' views and experiences of the right to access information.

Among the key findings in relation to Australian Government agencies:

- 87% were aware of their right to access information held by the government
- 52% felt this right was 'very' important, and 32% felt it was 'quite' important
- more than one-third of respondents had attempted to access information held by an agency during the past 3 years
- 57% had searched for government information through the internet or Google, 45% through an agency website, and 13% through an FOI application
- 83% accessed the information they sought successfully.

The OAIC continues to use the survey results to inform activities to promote and support the right to access information and to enhance understanding of information access issues across government.

Strategic Priority 4

Contemporary approach to regulation

The OAIC takes a contemporary approach to our regulatory role in promoting and upholding Australia's privacy and freedom of information laws. This means we engage with, and are responsive to, the community's expectations of its regulatory bodies.

Key focus area: Review our regulatory approach

We have conducted a review of our regulatory approach to ensure it aligns with government and public expectations of domestic regulators. We have established a project team dedicated to the Privacy Act review.

Indicator 4.1: The OAIC has sufficient statutory powers to detect and deter non-compliance



Measure

Powers are enhanced.



Target: Qualitatively demonstrated

Not applicable.

In December 2019, the Australian Government announced that it would commence a review of the Privacy Act to ensure it empowers consumers, protects their data and best serves the economy. The review aims to identify areas where consumer privacy protection can be improved and ways to ensure our privacy regime operates effectively. The review by the Attorney-General's Department is expected to commence in the second half of 2020.

We have assembled a project team to examine how the Privacy Act could be amended to enhance the OAIC's statutory powers and strengthen our ability to regulate effectively. We are actively engaging with the Attorney-General's Department regarding potential amendments to the Privacy Act. For more information see Indicator 1.2 on page 29.

COVIDSafe system

The OAIC was granted additional powers under the new Part VIIIA of the Privacy Act in relation to the COVIDSafe app. The Privacy Act was amended on 14 May 2020 to provide additional protections for data collected by the COVIDSafe app and held in the National COVIDSafe Data Store. The OAIC has an independent oversight function under the Privacy Act and is actively monitoring and regulating compliance with the COVIDSafe app provisions of the Privacy Act.

The OAIC has powers to conduct audits, investigate complaints, order compensation payments, seek civil penalties against those who breach the law, refer matters to the police or state and territory privacy regulators if appropriate.

Indicator 4.2: The OAIC is seen to take appropriate regulatory action in relation to breaches of the relevant law

The community expects that the OAIC will take appropriate regulatory action in respect of breaches of the relevant law. The OAIC seeks to ensure that appropriate regulatory action is taken and that regulatory responses are consistent, proportionate, transparent and are evidence and risk-based.



Measure

Media and stakeholder sentiment.



Target: Qualitatively demonstrated

Achieved.

Our analysis of media coverage and the results of our stakeholder survey indicate that the OAIC was seen to take appropriate regulatory action in relation to breaches of the relevant law in 2019–20.

Our external media monitoring services recorded approximately 5,600 media mentions of the OAIC during the reporting period.⁴ Consistent with the OAIC's strategic priority of being a contemporary regulator, regulatory action or proactive initiatives generated the most media mentions of the OAIC during 2019–20. These included:

- Federal Court Facebook proceedings (which received the most coverage of any OAIC story during 2019–20)
- the privacy protections in the COVIDSafe app and resulting legislation
- the investigation into the Department of Home Affairs' compliance with the FOI Act
- the start of the Consumer Data Right

⁴ The OAIC changed media monitoring service providers during 2019–20. Different methodologies were used by each provider to measure media mentions of the OAIC between July to December 2019 and January to June 2020. There was a substantial increase recorded in the second half of the year, although this period included several major proactive stories for the OAIC such as the Facebook court proceedings and the development of the COVIDSafe app.

- coordinated international privacy warning to Libra/Calibra over its privacy protections.

Approximately 50% of articles in which the OAIC appeared, across a range of subjects, were internally rated for sentiment. This analysis indicates almost two-thirds (65%) were 'balanced' in their coverage. 'Negative' and 'trending negative' stories accounted for 3% of coverage, with the remaining 32% rated as 'trending positive' or 'positive'.

In July 2020, the OAIC surveyed key stakeholders on their views of the OAIC's regulatory performance during the 2019–20 reporting period and received 38 responses. More than twice the number of respondents agreed (45%) as disagreed (18%) that the OAIC takes appropriate regulatory action in relation to breaches of the relevant law; 21% neither agreed nor disagreed; and 16% said 'don't know'.

Media activity and sentiment

The OAIC changed media monitoring suppliers during the reporting period and our analysis averages the different classification methodologies used. The figures exclude mentions on social media.

During the 2019–20 year we also tracked media activity sentiment, rating it against five measures:

- Positive – the OAIC is the focus of the story and is shown to be achieving its objectives in a forthright manner
- Trending positive – the OAIC is mentioned in the story and its achievements are recognised favourably
- Balanced – the OAIC features in the article and both positive and negative aspects are given equal weight, or the mention is without commentary
- Trending negative – the OAIC is mentioned in the story and characterised as, for example, slow moving, ineffectual or without sufficient resources.
- Negative – the OAIC is the focus of the story and regarded negatively.

The OAIC answered 217 media enquiries during 2019–20. For more information see Table 2.10.2 on page 59.

Stakeholder survey

The OAIC's stakeholder survey in July 2020 found that:⁵

- 68% of stakeholders rated the OAIC's stakeholder engagement with their organisation overall as 'highly' or 'very' effective during 2019–20
- 72% rated the OAIC's performance in working with their organisation to develop online privacy protections as 'highly' or 'very' effective
- 64% said the OAIC was 'highly' or 'very' effective in engaging with their organisation to promote an understanding of obligations under the Privacy Act
- 52% rated the OAIC's performance in working with their organisation to improve access to government information to support public participation and engagement as 'highly' or 'very' effective
- 53% agreed that the OAIC had strong and productive relationships with domestic regulators.

OAIC networks

The OAIC convenes local networks for privacy and FOI practitioners to engage with us and stay up to date with regulatory developments.

Privacy Professionals Network

The Privacy Professionals Network (PPN) is for public and private sector privacy professionals. Its membership grew during this reporting period from 3,623 to 3,865 members. We sent a monthly newsletter to all PPN members and one targeted alert during the reporting period. We also held a PPN event in partnership with the International Association of Privacy Professionals' Perth KnowledgeNet Chapter, focused on protecting health information.

Information Contact Officers Network

The Information Contact Officers Network (ICON) is for Australian Government FOI practitioners. At the end of this reporting period there were 573 ICON members.

We held one ICON information session during the reporting period to coincide with Right to Know Day 2019. Commissioner Angelene Falk delivered a speech on 24 September 2019 in Canberra about the OAIC's priorities in relation to advancing FOI. A second information session scheduled for April 2020 was postponed due to the COVID-19 pandemic.

⁵ Results based on number of responses to each question, excluding respondents who said the question was 'not applicable' to their organisation.

Indicator 4.3: International regulators actively seek the views of the OAIC in relation to policy development or enforcement activities



Measure

Engagement with international regulators.



Target: Qualitatively demonstrated

Achieved.

We continued to engage with international regulators in 2019–20 through forums such as the GPA, APPA and the International Conference of Information Commissioners (ICIC).

During the reporting period, the OAIC sought to strengthen existing relationships with other privacy regulators. The OAIC signed 2 MOUs with key international regulators – the United Kingdom’s Information Commissioner’s Office (ICO) and Singapore’s Personal Data Protection Commission.

In addition to international forums, the OAIC engages with a broad range of international stakeholders to promote and uphold privacy, including civil society organisations, the international business community and overseas government organisations. Many nations and regions adopting new privacy laws or creating privacy regulatory regimes seek assistance and information about best practice regulatory approaches from jurisdictions with established laws and frameworks. From time to time, we are also contacted by regulators from jurisdictions with established laws and frameworks seeking our views on specific issues.

The Commissioner was a signatory to a statement on the challenges being faced to address the spread of Coronavirus (COVID-19) by the Executive Committee of the GPA issued on 17 March 2020, and a second statement on achieving privacy by design in contact tracing measures issued on 21 May 2020.

The Commissioner was also a signatory to the statement released by Australian and New Zealand Information Access Commissioners in which they joined with fellow members of the ICIC to recognise and promote sound information management practices as part of Information Awareness Month in May 2020. In particular, the statement calls for the documentation of government decisions and facilitation of security of digital content during the COVID-19 shutdown.

International networks

The OAIC provides leadership in the global privacy community by serving on the Global Privacy Assembly’s Executive Committee and chairing the Strategic Direction Sub-Committee of the Executive Committee.

The OAIC engages with the Global Privacy Assembly’s International Enforcement Working Group. Through this group, the OAIC has undertaken regulatory enforcement activity.

During 2019–20, the OAIC prepared to initiate a joint investigation with the United Kingdom’s Information Commissioner’s Office into Clearview AI’s use of ‘scraped’ data and biometrics of individuals. The investigation will highlight the importance of enforcement cooperation in protecting the personal information of Australian and UK citizens in a globalised data environment. The joint investigation will be conducted under the Global Privacy Assembly’s Global Cross Border Enforcement Cooperation Arrangement and the MOU between the OAIC and the ICO.

The OAIC also joined with other regulators to sign an open letter to video teleconferencing companies setting out clear expectations of these companies amidst the new and exacerbated privacy risks that can arise given the sharp uptake in use of these services during the pandemic.

For more information see International privacy networks on page 28.

Indicator 4.4: The OAIC has strong and productive relationships with domestic regulators



Measure

Regular engagement with other regulators.



Target: Qualitatively demonstrated

Achieved.

The Information Commissioner is a member of the AIAC and she works with other Commissioners and Ombudsmen to identify trends and issues affecting information access rights in Australia and New Zealand. During 2019–20, AIAC members issued joint statements to mark Right to Know Day (28 September); to emphasise the importance of documenting decisions, preserving records and providing access to information throughout the COVID-19 pandemic; and to highlight the continued importance of transparency during the pandemic.

The OAIC is also a member of Privacy Authorities Australia (PAA) which seeks to increase jurisdictional cooperation and address policy challenges that cross borders or involve complex systems and technologies. The Information Commissioner and OAIC staff attended 2 PAA meetings during 2019–20, including a virtual meeting hosted by the OAIC in June 2020. The OAIC also participated in the PAA Privacy Policy Group and Privacy Complaints and Enforcement Group.

In March 2020, the OAIC convened the COVID-19 National Privacy Team to respond to proposals with national implications, inviting members of PAA to join. PAA members also cooperate in the delivery of PAW campaigns.

The OAIC met regularly with representatives from the ACCC's Digital Platforms team to share

information, to the extent permitted by law, about enforcement matters of mutual interest. The ACCC and the OAIC are co-regulators in relation to the Consumer Data Right. The OAIC worked closely with the ACCC during the reporting period to prepare for the commencement of the Consumer Data Right.

The OAIC also worked with the ACCC, eSafety Commissioner and Australian Cyber Security Centre on the related issues of security, privacy, safety and preventing scams.

Domestic networks

Association of Information Access Commissioners

The Association of Information Access Commissioners (AIAC) is an Australian and New Zealand network comprising information access authorities who administer FOI legislation. The aim of the network is to exchange information and promote best practice in information access policies and laws.

Privacy Authorities Australia

Privacy Authorities Australia (PAA) is a group of Australian privacy authorities who meet regularly to promote best practice and consistency of privacy policies and laws. We join privacy representatives from all states and territories as a member of PAA.

COVID-19 National Privacy Team

In March 2020, the OAIC established a COVID-19 National Privacy Team to bring domestic regulators together to respond to personal information handling proposals with national implications. The OAIC and the Privacy Commissioners and Ombudsmen of states and territories meet on a regular basis to consider the impacts of the COVID-19 pandemic.

Key focus area: Internal capability development

In 2019–20, the OAIC implemented strategies to enhance our internal capability in the areas of people, data management and reporting. We provided learning and development opportunities to our people to enhance our technical capabilities. We also undertook initiatives to strengthen our information management practices and internal reporting capabilities.

Indicator 4.5: Improved employee engagement



Measure

Measured through APS Employee Census.



Target: Improvement on previous year

Achieved.

Last year's Australian Public Service (APS) Employee Census results revealed that our people felt committed to the OAIC's goals and strongly believed in our organisational purpose and objectives. The employee engagement score in the OAIC's census results remained constant at 72% between 2018 and 2019.

During 2019–20, the OAIC implemented strategies and initiatives to strengthen our employee engagement. A large number of small group workshops were held in late 2019, involving all staff. This enabled us to better understand and explore the outcomes of the APS Employee Census. As a result of the workshops, several staff groups were formed to implement improvements in areas such as internal communications and social engagement.

Other strategies relevant to engagement include an increased focus on role clarity to enable our

people to better understand their responsibilities and the responsibilities of others, and how they contribute to the OAIC's performance as a regulator. We have also worked to leverage technical knowledge and collaboration across the OAIC. We have implemented significant learning and development programs, and health and wellbeing strategies, as well as supporting flexible working conditions.

Indicator 4.6: Reduced staff turnover rate



Measure

Staff turnover rate.



Target: In line with APS small agency average

Partially achieved.

In the 2019–20 reporting period, we retained more of our talent and reduced our overall attrition rate from 24% in 2018–19 to 18% in 2019–20. However, our staff turnover rate remains marginally higher than the small agency average (to the end of 2019) which is 15.8%.

Our establishment of an in-house People and Culture function supported a more structured and strategic approach to building a cohesive workforce to deliver our strategic priorities and regulatory functions.

We also implemented a retention initiative to improve internal mobility that includes providing staff with temporary and permanent transfer arrangements between APS agencies to support their professional development. This proved to be beneficial to the organisation in enhancing our collaboration with partner agencies and fulfilling the OAIC's talent management and succession planning strategic initiatives.

Indicator 4.7: Strong competition for vacancies



Measure

Sufficient high-quality applicants for advertised roles.



Target: Qualitatively demonstrated

Achieved.

The OAIC's focus on a contemporary regulatory approach has involved redefining our recruitment practices. Throughout 2019–20, the OAIC succeeded in attracting high-calibre staff to advance our purpose and vision. The newly established in-house People and Culture function improved our recruitment processes enabling the OAIC to retain skills and knowledge while usually attracting a reasonable number of suitable candidates for new or vacant roles.

Indicator 4.8: Internal capability supports the full range of OAIC functions



Measure

Approved training courses completed.



Target: 75% of approved courses are completed

Achieved.

All courses that were identified through the performance framework and referred to the training area were approved and attended, unless impacted by the COVID-19 pandemic. A revised online learning and development program was well attended.

In 2019–20, the OAIC established a new learning and development program to focus on achieving a longer-term workforce capability strategy. Completion of courses and learning and development sessions was impacted by the significant change in the work environment due to the COVID-19 pandemic. As the OAIC pivoted to working remotely, face-to-face learning was halted, and staff moved to online options to achieve their learning goals.

Responding to the challenges posed by physical distancing requirements, the OAIC redefined its learning and development course offerings, identifying 4 theme areas: developing our leaders, strengthening our regulatory approach, enhancing and implementing positive psychology interventions in the workplace, and developing APS core and foundation skills. We successfully delivered a number of online courses for groups of staff, ensuring a consistent experience and addressing learning and development needs.

The OAIC will continue to deliver broad learning and development programs and identify specific activities for individual staff members, with the overall aim of enhancing business performance and productivity, developing staff capabilities and fostering greater collaboration.

Indicator 4.9: Data analysis identifies enterprise risks



Measure

Reports completed.



Target: Qualitatively demonstrated

Achieved.

During the reporting period, the OAIC began a reporting system project to significantly enhance the way we draw insights from data to improve our ability to manage risk. This supports the OAIC in advancing our regulatory priorities and increases our efficiency in addressing community needs when undertaking regulatory action.

This work involved:

- using data to improve risk management by establishing a data analytics and reporting program including regular enterprise-level monitoring of each work function
- centralising data reporting systems and developing real-time reporting to provide clearer insights to help measure our performance against regulatory priorities over time
- implementing a data systems enhancement program to support and mature our data collection practices
- reviewing internal classification of data and information to support more efficient and accurate use and management of data.

We are also maturing our infrastructure through enhancements to data systems.



Part 3

Management and accountability

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Corporate governance

Setting strategic direction, implementing effective policies and processes, and monitoring progress are key elements of our corporate governance framework.

Enabling legislation

The Office of the Australian Information Commissioner (OAIC) was established in November 2010 as an independent statutory agency under the *Australian Information Commissioner Act 2010* (AIC Act). We are responsible for privacy functions conferred by the *Privacy Act 1988* (Privacy Act) and other laws.

We have freedom of information (FOI) functions, including the oversight of the operation of the *Freedom of Information Act 1982* (FOI Act) and review of decisions made by agencies and ministers under that Act.

We are accountable as a non-corporate Commonwealth entity under the *Public Governance, Performance and Accountability Act 2013* (PGPA Act). Our annual reporting responsibilities are under s 46 of the PGPA Act and s 30 of the AIC Act. We also have a range of reporting and other responsibilities under legislation generally applicable to Australian Government authorities.

Portfolio structure and responsible minister

The OAIC is a statutory authority within the Attorney-General's portfolio. The minister responsible is the Hon Christian Porter MP.

Executive

During this reporting period, our Executive team met weekly and oversaw all aspects of our business covering corporate management and performance, finance, human resources, governance, risk management, external engagement and business planning.

Risk management

Our risk management framework helped staff to assess risks, make informed decisions and confidently engage with risk.

Our Executive team regularly considered and reviewed the risks the agency faced and the reports on risk were received by the Audit Committee.

The OAIC commenced a comprehensive review of our risk management approach in the 2019–20 financial year, including the development of a revised strategic risk framework and consideration of key risk factors in our domains of responsibility. This work will be expanded in the next reporting period, encompassing the review of our risk policies and procedures and the development of detailed risk profiles for specific areas such as our new regulatory responsibilities in relation to the Consumer Data Right and the COVIDSafe app.

The OAIC has expanded its risk management capability, appointing an Assistant Commissioner – Corporate, and bringing on board senior staff to provide advice and guidance. We have developed our strategic risk profile by focusing on what we must get right to deliver on our strategic priorities. The pillars of our strategic risk profile we have identified are: our people; governance and infrastructure; focus on outcomes; and being community-centric and stakeholder focused.

Fraud

Our fraud control plan, fraud control policy and guidelines were made available to all staff through internal communications channels.

Audit Committee

Our Audit Committee assisted the Commissioner to discharge her responsibilities in relation to the OAIC's finances and performance, risk oversight and management, and system of internal control. The Audit Committee oversaw the work of our internal auditors, ensured the annual work program was adhered to and ensured appropriate coverage of our strategic and operational risks. The Audit Committee charter was reviewed in accordance with guidance and the forward work program was aligned to it. Arrangements were made to appoint a new Audit Committee Chairperson and replace an outgoing Audit Committee member early in the 2020–21 financial year. New appointees are appropriately skilled independent people drawn from outside the Australian Public Service.

Through the 2019–20 financial year the Audit Committee was chaired by a member of our Executive team and had 2 independent members. The independent members were employees of the National Disability Insurance Scheme Agency (who resigned in March 2020) and the Australian Human Rights Commission (AHRC). For more information see Table 3.1 over page.

Representatives from the Australian National Audit Office attend meetings of the Audit Committee as observers.

Corporate services

The OAIC re-signed a memorandum of understanding (MOU) with the AHRC in November 2019. The MOU sets out the provision of some corporate services including financial, information and communications technology and some human resources services. The OAIC also subleases a portion of our premises in Sydney from the AHRC under this arrangement.

For more information on the MOU with the AHRC see Appendix C.

Table 3.1: Audit committee

Member name	Qualifications, knowledge, skills or experience (including formal and informal as relevant)	Number of meetings attended	Total annual remuneration \$
Ruth Mackay PSM	Extensive experience within the Australian Public Service Senior Executive Service having held senior governance-related roles at the Civil Aviation Safety Authority. Prior to this Ms Mackay led the implementation of Coalition of Australian Government reforms to Australia's product safety system as the General Manager of Product Safety at the Australian Competition and Consumer Commission. Broad senior executive management experience within the public sector.	3	–
Rachel Holt	Holds the position of Senior Executive, Investigation and Conciliation Service at Australian Human Rights Commission. Broad senior executive management experience within the public sector.	5	–
Donna Hargreaves	Holds the position of Director, Financial Reporting, National Disability Insurance Agency. Broad senior executive management experience within the public sector with a particular focus on financial management.	4	–
Andrew Solomon	Andrew Solomon served as Assistant Commissioner, Dispute Resolution until November 2019, having spent more than a decade at the OAIC and former Office of the Privacy Commissioner. Previously, he was NSW State Manager for the National Native Title Tribunal, and ran the Central Sydney Community Transport Group, a not-for-profit organisation.	2	–

External scrutiny

During this reporting period, there were no judicial decisions or decisions of administrative tribunals that had a significant impact on our operations.

There were no reports on our operations by the Auditor-General, a parliamentary committee or the Commonwealth Ombudsman.

People and Culture

The OAIC continued to provide a workplace that offered fulfilling and challenging work, and promoted the professional development of our people. To deliver on our key strategic priorities, we relied on a team of highly skilled and competent staff as the national regulator in both privacy and FOI.

In 2019–20, we continued to build the capacity of existing staff and develop the necessary skill sets to meet the demands for privacy and information management for the Australian public, government agencies and the wider industry.

Our people

As a small agency in a competitive market, we continued to face challenges in recruiting and retaining skilled people. We used a number of strategies to attract talent including online and social media advertising.

In 2019–20, we established an in-house People and Culture function to support a more structured and strategic approach to building a workforce with the capabilities needed to deliver on our purpose (see Tables 3.2 and 3.3 on page 82).

During this reporting period, we had an average staffing level of 95.4. Our staff turnover was approximately 18% for ongoing staff. This involved 17 ongoing staff resigning, retiring or transferring to other Australian Government agencies. We had 24 ongoing staff join us during 2019–20. As of 30 June 2020, we had 104.8 full-time equivalent (FTE) staff, including ongoing and non-ongoing employees.

Table 3.2: Staffing profile as at 30 June 2020

Classification	Male	Female	Full-time	Part-time	Ongoing	Non-ongoing	Total
Statutory Office Holder	–	1	1	–	–	1	1
SES Band 2	–	1	1	–	1	–	1
SES Band 1	2	2	4	–	2	2	4
Executive Level 2 (\$120,356–\$137,355)	3	14	12	5	15	2	17
Executive Level 1 (\$103,618–\$110,840)	14	24	29	9	33	5	38
APS 6 (\$82,219–\$90,539)	8	34	37	5	36	6	42
APS 5 (\$74,563–\$78,827)	6	9	13	2	9	6	15
APS 4 (\$66,881–\$71,064)	2	–	2	–	1	1	2
Total	35	85	99	21	97	23	120

Table 3.3: Employment statistics

Employment statistics	
Total staff	120
Full-time	99
Part-time	21
Gender	
Female	85
Male	35
Diversity	
Aboriginal and Torres Strait Islander people	1%
People with disability	4%
People from a non-English speaking background	11%

Learning and development

We are committed to ongoing learning and development of our staff, recognising the importance of building and developing capabilities to meet current and future needs.

Our work is becoming increasingly technical as the digital environment becomes more complex, and we are also seeing more complex and substantive complaints and investigations in comparison with previous years.

In the *OAIC Corporate Plan 2019–20*, we identified the need to update our workforce capability plan and undertake recruitment and training in areas of emerging technical capability requirements. This internal capability development has been a key focus in our delivery of the plan, and supports our strategic priority of taking a contemporary approach to regulation. The need for a focus on learning and development was also identified through a range of census workshops with OAIC staff.

The OAIC aims to provide a range of learning and development opportunities to staff in line with the Australian Public Service Commission's 70:20:10 model of learning. This model is a key learning and development principle which supports and facilitates learning in the workplace. Through a collaborative approach between employees, managers and human resources, the identification and engagement in development activities allows individuals to capitalise on work-based and relationship-based opportunities. For more information see Indicator 4.5 on page 73.

Talking about performance

Our Performance Management and Development scheme 'Talking about performance' provided regular and formal assessment of staff members' work performance and identified learning and development needs.

Professional skills development

Staff undertake specialised training to ensure they are continuously building on their subject-matter expertise and are able to access the latest information from industry and government.

During this reporting period, relevant staff attended specialist training in decision writing, administrative law, conciliation and investigations, auditing skills, leadership and management, plain English, mental health and managing unreasonable complainant conduct.

Study and professional membership assistance

The OAIC encourages staff to undertake study to develop their knowledge and skills in relevant areas. We supported staff in meeting their learning and development needs by providing study assistance.

Benefits

We offer our people the following non-salary related benefits:

- flexible working arrangements including home-based work where appropriate
- employee assistance program
- extended purchased leave
- maternity and adoption leave
- parental leave

- leave for compelling personal reasons and exceptional circumstances
- access to paid leave at half pay
- Flextime (APS staff)
- study assistance
- support for professional and personal development
- healthy lifestyle reimbursement
- screen-based eyesight testing and screen-based prescription glasses reimbursements
- influenza vaccinations.

Workplace relations

During this reporting period, general salary increases were deferred by 6 months across the APS from 14 April 2020, due to the outbreak of coronavirus having a significant impact on workplaces and the economy. The announcement was made by the Assistant Minister to the Prime Minister and Cabinet, who issued a Determination under s 24(3) of the *Public Service Act 1999*. Further salary increases for staff covered under the OAIC's Enterprise Agreement 2016–19 will now occur in November 2020 and May 2021.

In 2019–20, no staff received performance pay. Nine staff had an individual flexibility arrangement in place.

OAIC Consultation Forum

The OAIC Consultation Forum provides an opportunity for our staff and their representatives to meet and consider issues relating to working at the OAIC.

Statutory office holder and SES remuneration

The Remuneration Tribunal determined the terms and conditions of our statutory office holder. Remuneration for SES officers is governed by determinations made by the Commissioner under s 24(1) of the *Public Service Act 1999*.

For more information on executive remuneration see Appendix B.

Workplace diversity

Our Diversity Committee was led by the Assistant Commissioner – Corporate from late 2019 and included representatives from all OAIC branches. The Diversity Committee was responsible for driving our wider diversity strategy and coordinating our obligations under Multicultural Access and Equity Reporting.

Work health and safety

The AHRC ceased providing the OAIC with advice and resources on work health and safety (WHS) under revised shared services arrangements outlined in the November 2019 MOU.

During the reporting period, the OAIC elected Health and Safety Representatives (HSRs) and took steps to establish an in-house WHS committee. With the outbreak of COVID-19, the OAIC was quick to respond and established a COVID Response Taskforce. The Taskforce included the HSRs and other WHS-trained staff and consulted with staff broadly on a range of WHS issues.

All new staff are provided with WHS information on commencement.

There were no significant incidents reported by staff during this reporting period.

Procurement

During this reporting period, we complied with the Australian Government's procurement policy framework. We encouraged competition, value for money, transparency and accountability.

All procurement was conducted in line with the Commonwealth Procurement Rules to ensure the efficient, effective, economical and ethical use of Australian Government resources.

During this reporting period, no contracts were exempt from reporting on AusTender on the basis that publishing contract details would disclose exempt matters under the FOI Act. All awarded contracts valued at \$100,000 (GST inclusive) or greater contained standard clauses granting the Auditor-General access to contractors' premises.

This report contains information about actual expenditure on contracts for consultancies. Information on the value of contracts and consultancies is available on the AusTender website.

Consultants

We engaged consultants where we lacked specialist expertise or when independent research, review or assessment was required.

Typically, we engaged consultants to:

- investigate or diagnose a defined issue or problem
- carry out defined reviews or evaluations
- provide independent advice, information or creative solutions to assist with our decision-making.

During this reporting period, 9 new consultancy contracts were entered into involving total actual expenditure of \$335,260 (excluding GST).

Before we engaged consultants, we took into account the skills and resources required for the task, the skills available internally, and the cost-effectiveness of engaging external expertise. All the decisions relating to consultancy contracts were made in line with the PGPA Act and related regulations, including the Commonwealth Procurement Rules.

Small business

We supported small business participation in the Commonwealth Government procurement market and engaged with small businesses wherever appropriate during our work. Small and medium enterprises (SME) and small enterprise participation statistics are available on the Department of Finance's website. We also recognised the importance of ensuring that small businesses were paid on time. Our statistics are available in the Survey of Australian Government Payments to Small Business, which is available on the Treasury's website.

Other requirements

Advertising and market research

During this reporting period, the OAIC conducted the following advertising campaign:

Paid Facebook promotion of a new consumer resource available on the OAIC website explaining online privacy risks and how to protect personal information online.

During this reporting period, the OAIC conducted the following market research:

The OAIC entered into a contract with Lonergan Research Pty Ltd to conduct the 2020 Australian Community Attitudes to Privacy Survey (a national survey into Australian's attitudes and behaviours around privacy issues) and to produce a report on the results. The total spend in 2019–20 was \$147,140 (GST exclusive). More information on the survey is available on the OAIC website.

Grant programs

No grant programs took place in 2019–20.

Memorandums of understanding

We received funding for specific services under a range of MOUs. For more information see Appendix C.

Disability reporting

The National Disability Strategy 2010–2020 is a national policy framework to improve the lives of people with disability, promote participation and create a more inclusive society. The Australian Government is leading the development of a new National Disability Strategy to replace the current National Disability Strategy when it expires at the end of 2020.

Ecologically sustainable development and environment performance

Section 516A of the *Environment Protection and Biodiversity Conservation Act 1999* requires us to report on how our activities accord with the principles of ecologically sustainable development. Our role and activities do not directly link with the principles of ecologically sustainable development or impact on the environment, other than through our business operations regarding the consumption of resources required to sustain our operations. We use energy saving methods in the OAIC's operation and endeavour to make the best use of resources.

Information Publication Scheme

As required by the FOI Act, we have an Information Publication Scheme entry on our website that provides information on our structure, functions, appointments, annual reports, consultation arrangements, FOI officer, information we routinely release following FOI requests, and information we routinely provide to the Australian Parliament.

Part 4

Financial statements

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INDEPENDENT AUDITOR'S REPORT

To the Attorney-General

Opinion

In my opinion, the financial statements of the Office of the Australian Information Commissioner (the Entity) for the year ended 30 June 2020:

- (a) comply with Australian Accounting Standards – Reduced Disclosure Requirements and the *Public Governance, Performance and Accountability (Financial Reporting) Rule 2015*; and
- (b) present fairly the financial position of the Entity as at 30 June 2020 and its financial performance and cash flows for the year then ended.

The financial statements of the Entity, which I have audited, comprise the following as at 30 June 2020 and for the year then ended:

- Statement by the Accountable Authority and Chief Financial Officer;
- Statement of Comprehensive Income;
- Statement of Financial Position;
- Statement of Changes in Equity;
- Cash Flow Statement; and
- Notes to the financial statements, comprising a summary of significant accounting policies and other explanatory information.

Basis for opinion

I conducted my audit in accordance with the Australian National Audit Office Auditing Standards, which incorporate the Australian Auditing Standards. My responsibilities under those standards are further described in the *Auditor's Responsibilities for the Audit of the Financial Statements* section of my report. I am independent of the Entity in accordance with the relevant ethical requirements for financial statement audits conducted by the Auditor-General and his delegates. These include the relevant independence requirements of the Accounting Professional and Ethical Standards Board's APES 110 *Code of Ethics for Professional Accountants (including Independence Standards)* (the Code) to the extent that they are not in conflict with the *Auditor-General Act 1997*. I have also fulfilled my other responsibilities in accordance with the Code. I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my opinion.

Accountable Authority's responsibility for the financial statements

As the Accountable Authority of the Entity, the Australian Information Commissioner is responsible under the *Public Governance, Performance and Accountability Act 2013* (the Act) for the preparation and fair presentation of annual financial statements that comply with Australian Accounting Standards – Reduced Disclosure Requirements and the rules made under the Act. The Australian Information Commissioner is also responsible for such internal control as the Australian Information Commissioner determines is necessary to enable the preparation of financial statements that are free from material misstatement, whether due to fraud or error.

In preparing the financial statements, the Australian Information Commissioner is responsible for assessing the ability of the Entity to continue as a going concern, taking into account whether the Entity's operations will cease as a result of an administrative restructure or for any other reason. The Australian Information Commissioner is also responsible for disclosing, as applicable, matters related to going concern and using the going concern basis of accounting unless the assessment indicates that it is not appropriate.

Auditor's responsibilities for the audit of the financial statements

My objective is to obtain reasonable assurance about whether the financial statements as a whole are free from material misstatement, whether due to fraud or error, and to issue an auditor's report that includes my opinion. Reasonable assurance is a high level of assurance, but is not a guarantee that an audit conducted in accordance with the Australian National Audit Office Auditing Standards will always detect a material misstatement when it exists. Misstatements can arise from fraud or error and are considered material if, individually or in the aggregate, they could reasonably be expected to influence the economic decisions of users taken on the basis of the financial statements.

As part of an audit in accordance with the Australian National Audit Office Auditing Standards, I exercise professional judgement and maintain professional scepticism throughout the audit. I also:

- identify and assess the risks of material misstatement of the financial statements, whether due to fraud or error, design and perform audit procedures responsive to those risks, and obtain audit evidence that is sufficient and appropriate to provide a basis for my opinion. The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations, or the override of internal control;
- obtain an understanding of internal control relevant to the audit in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the Entity's internal control;
- evaluate the appropriateness of accounting policies used and the reasonableness of accounting estimates and related disclosures made by the Accountable Authority;
- conclude on the appropriateness of the Accountable Authority's use of the going concern basis of accounting and, based on the audit evidence obtained, whether a material uncertainty exists related to events or conditions that may cast significant doubt on the Entity's ability to continue as a going concern. If I conclude that a material uncertainty exists, I am required to draw attention in my auditor's report to the related disclosures in the financial statements or, if such disclosures are inadequate, to modify my opinion. My conclusions are based on the audit evidence obtained up to the date of my auditor's report. However, future events or conditions may cause the Entity to cease to continue as a going concern; and
- evaluate the overall presentation, structure and content of the financial statements, including the disclosures, and whether the financial statements represent the underlying transactions and events in a manner that achieves fair presentation.

I communicate with the Accountable Authority regarding, among other matters, the planned scope and timing of the audit and significant audit findings, including any significant deficiencies in internal control that I identify during my audit.

Australian National Audit Office



Jodi George

Executive Director

Delegate of the Auditor-General

Canberra

11 September 2020

STATEMENT BY THE ACCOUNTABLE AUTHORITY AND CHIEF FINANCIAL OFFICER

In our opinion, the attached financial statements for the year ended 30 June 2020 comply with subsection 42(2) of the *Public Governance, Performance and Accountability Act 2013* (PGPA Act), and are based on properly maintained financial records as per subsection 41(2) of the PGPA Act.

In our opinion, at the date of this statement, there are reasonable grounds to believe that the Office of the Australian Information Commissioner will be able to pay its debts as and when they fall due.



Angelene Falk
Australian Information Commissioner

10 September 2020



Brenton Attard
Chief Financial Officer

10 September 2020

Statement of comprehensive income

for the period ended 30 June 2020

	Notes	2020 \$'000	2019 \$'000	Original budget \$'000
NET COST OF SERVICES				
Expenses				
Employee benefits	1.1A	15,334	12,003	14,627
Suppliers	1.1B	5,763	4,618	6,525
Depreciation and amortisation	2.2A	2,233	464	299
Finance costs	1.1C	24	–	–
Total expenses		23,355	17,085	21,451
Own-Source Income				
Own-source revenue				
Revenue from contracts with customers	1.2A	2,257	2,029	178
Other revenue	1.2B	36	36	–
Total own-source revenue		2,293	2,065	178
Gains				
Other Gains	1.2C	1	–	33
Total gains		1	–	33
Total own-source income		2,293	2,065	211
Net (cost of)/contribution by services		(21,062)	(15,020)	(21,240)
Revenue from government	1.2D	20,941	13,825	20,941
Surplus/(Deficit) attributable to the Australian Government		(121)	(1,195)	(299)
OTHER COMPREHENSIVE INCOME				
Items not subject to subsequent reclassification to net cost of services				
Changes in asset revaluation surplus		35	–	–
Total other comprehensive income		35	–	–

The above statement should be read in conjunction with the accompanying notes.

Budget variances commentary

The variances primarily relate to the Rendering of Services, Suppliers and Depreciation and amortisation.

Rendering of services variance relates mainly to services provided to a government agency under a memorandum of understanding which was not known at the time of the budget preparation.

The variances in Suppliers and Depreciation and amortisation relates to the transition to AASB 16 Leases, effective 1 July 2019, the budget estimates were updated to reflect this standard in the subsequent budget rounds.

Statement of financial position

as at 30 June 2020

	Notes	2020 \$'000	2019 \$'000	Original budget \$'000
ASSETS				
Financial assets				
Cash	2.1A	3,590	601	589
Trade and Other Receivables	2.1B	4,406	4,527	4,167
Total financial assets		7,996	5,128	4,756
Non-financial assets¹				
Property Lease	2.2A	1,551	–	–
Infrastructure, Plant and Equipment	2.2A	1,573	643	3,192
Intangibles	2.2A	696	684	594
Other Non-Financial Assets	2.2B	526	483	45
Total non-financial assets		4,347	1,810	3,831
Total assets		12,343	6,938	8,587
LIABILITIES				
Payables				
Suppliers	2.3A	2,656	1,131	884
Other Payables	2.3B	822	1,859	1,860
Total payables		3,478	2,990	2,744
Interest bearing liabilities				
Leases	2.4A	1,615	–	–
Total interest bearing liabilities		1,615	–	–
Provisions				
Employee provisions	4.1A	2,949	2,303	1,749
Total provisions		2,949	2,303	1,749
Total liabilities		8,043	5,293	4,493
Net assets		4,300	1,645	4,094
EQUITY				
Contributed equity		4,873	2,873	4,873
Reserves		208	172	172
Accumulated Results		(782)	(1,400)	(951)
Total equity		4,300	1,645	4,094

The above statement should be read in conjunction with the accompanying notes.

1 Right-of-use assets are included in the property lease line item.

Budget variances commentary

Assets

Total assets were higher than budgeted due to increases in the amount of cash held at 30 June and due to the transition to AASB 16 Leases. This favourable cash position is mainly due to a timing difference.

Liabilities

Total liabilities were higher than budgeted due to a higher payables balance at 30 June than anticipated and also due to the transition to AASB 16 Leases. Payables are within normal terms and sufficient cash is available to pay them when they fall due in the next reporting period.

Equity

Equity is in line with expectations and the variance is due to the net effect of the variances in assets and liabilities.

Statement of changes in equity

for the period ended 30 June 2020

	2020 \$'000	2019 \$'000	Original budget \$'000
CONTRIBUTED EQUITY			
Opening balance			
Balance carried forward from previous period	2,873	2,013	2,173
Contributions by owners			
Equity injection – Appropriations	2,000	860	2,700
Total transactions with owners	2,000	860	2,700
Closing balance as at 30 June	4,873	2,873	4,873
RETAINED EARNINGS			
Opening balance			
Balance carried forward from previous period	(1,400)	(205)	(652)
Adjustment on initial application of AASB 16	739	–	–
Adjusted opening balance	(660)	(205)	(652)
Comprehensive income			
Surplus/(Deficit) for the period	(121)	(1,195)	(299)
Total comprehensive income	(121)	(1,195)	(299)
Closing balance as at 30 June	(782)	(1,400)	(951)
ASSET REVALUATION RESERVE			
Opening balance			–
Balance carried forward from previous period	173	173	172
Comprehensive income			
Other comprehensive income	35	–	–
Total comprehensive income	35	–	–
Closing balance as at 30 June	208	173	172

	2020 \$'000	2019 \$'000	Original budget \$'000
TOTAL EQUITY			
Opening balance			
Balance carried forward from previous period	1,645	1,981	1,693
Adjustment for changes in accounting policies	739	–	–
Adjusted opening balance	2,384	1,981	1,693
Comprehensive income			
Surplus/(Deficit) for the period	(121)	(1,195)	(299)
Other comprehensive income	35	–	–
Total comprehensive income	(86)	(1,195)	(299)
Transactions with owners			
Contributions by owners			
Equity injection – Appropriations	2,000	860	2,700
Total transactions with owners	2,000	860	2,700
Closing balance as at 30 June	4,300	1,645	4,094

The above statement should be read in conjunction with the accompanying notes.

Accounting policy

Equity Injections

Amounts appropriated which are designated as 'equity injections' for a year (less any formal reductions) and Departmental Capital Budgets (DCBs) are recognised directly in contributed equity in that year.

Budget variances commentary

Equity is largely in line with budget with the increase resulting from an equity injection through Appropriations.

Cash flow statement

for the period ended 30 June 2020

	2020 \$'000	2019 \$'000	Original budget \$'000
OPERATING ACTIVITIES			
Cash received			
Appropriations	21,270	13,496	20,941
Cash transferred from the Public Account	2,477	4,325	–
Rendering of services	2,111	1,484	178
GST received	1,000	537	250
Total cash received	26,858	19,842	21,369
Cash used			
Employees	(14,555)	(11,459)	(14,627)
Suppliers	(5,020)	(5,853)	(6,144)
Interest payments on lease liabilities	(24)	–	–
Section 74 receipts transferred to OPA	(3,145)	(2,473)	(250)
Total cash used	(22,744)	(19,785)	(21,021)
Net cash from/(used by) operating activities	4,114	57	348
INVESTING ACTIVITIES			
Cash used			
Purchase of infrastructure, plant and equipment	(1,263)	–	(2,719)
Purchase of intangibles	(200)	(205)	–
Total cash used	(1,463)	(205)	(2,719)
Net cash from/(used by) investing activities	(1,463)	(205)	(2,719)

	2020 \$'000	2019 \$'000	Original budget \$'000
FINANCING ACTIVITIES			
Cash received			
Contributed Equity	1,950	160	2,700
Total cash received	1,950	160	2,700
Cash used			
Principal payments of lease liabilities	(1,612)	–	–
Total cash used	(1,612)	–	–
Net cash from/(used by) financing activities	338	160	2,700
Net increase/(decrease) in cash held	2,989	12	329
Cash and cash equivalents at the beginning of the reporting period	601	589	260
Cash and cash equivalents at the end of the reporting period	3,590	601	589

The above statement should be read in conjunction with the accompanying notes.

Budget variances commentary

The major variances in the Cash Flow Statement includes cash received and used for operating activities and cash used for investing and financing activities.

During the reporting period the OAIC ensured delivery of its program outcomes which impacted on cash utilisation on operating and investing activities. The transition to AASB 16 Leases impacted on the increase in financing activities and reduction in cash used for payments to suppliers compared to budget.

Overview

Objectives of the Office of the Australian Information Commissioner

The Office of the Australian Information Commissioner (OAIC) is an Australian Government controlled entity established under the *Australian Information Commissioner Act 2010*.

The OAIC budgeted for a breakeven result, adjusted for depreciation and amortisation of \$299,000. During the reporting period there were a number of factors which were not anticipated that impacted on the result.

A significant factor was the impact of the COVID-19 pandemic on the progress of some significant initiatives, including the Privacy Legislation Amendment (Enhancing Online Privacy and Enforcement) Bill 2020 and the review of the *Privacy Act 1988*.

A further factor included unbudgeted revenue and expenditure to render services to a government agency and the impact of the first time application of AASB 16 Leases on depreciation and amortisation expense.

The OAIC is structured to meet the following outcome:

Provision of public access to Commonwealth Government information, protection of individuals' personal information, and performance of Information Commissioner, freedom of information and privacy functions.

The OAIC activities contributing toward this outcome are classified as departmental. Departmental activities involve the use of assets, liabilities, income and expenses controlled or incurred by the OAIC in its own right.

The basis of preparation

The financial statements are general purpose financial statements and are required by section 42 of the *Public Governance, Performance and Accountability Act 2013*.

The financial statements have been prepared in accordance with:

- a) *Public Governance, Performance and Accountability (Financial Reporting) Rule 2015 (FRR)* for reporting periods ending on or after 1 July 2015; and
- b) Australian Accounting Standards and Interpretations – Reduced Disclosure Requirements issued by the Australian Accounting Standards Board (AASB) that apply for the reporting period.

The financial statements have been prepared on an accrual basis and in accordance with the historical cost convention, except for certain assets and liabilities at fair value. Except where stated, no allowance is made for the effect of changing prices on the results or the financial position. The financial statements are presented in Australian dollars.

New accounting standards

Adoption of new Australian accounting standard requirements

No accounting standard has been adopted earlier than the application date as stated in the standard.

The following new, revised, amending standards and interpretations that were issued prior to the signing of the statement by the accountable authority and chief financial officer, were applicable to the current reporting period and had a material effect on the OAIC's financial statements:

Standard/ Interpretation	Nature of change in accounting policy, transitional provisions, and adjustment to financial statements
AASB 15 <i>Revenue from Contracts with Customers</i> / AASB 2016-8 <i>Amendments to Australian Accounting Standards – Australian Implementation Guidance for Not-for-Profit Entities and AASB 1058 Income of Not-For-Profit Entities</i>	<p>AASB 15, AASB 2016-8 and AASB 1058 became effective 1 July 2019.</p> <p>AASB 15 establishes a comprehensive framework for determining whether, how much and when revenue is recognised. It replaces existing revenue recognition guidance, including AASB 118 <i>Revenue</i>, AASB 111 <i>Construction Contracts</i> and Interpretation 13 <i>Customer Loyalty Programmes</i>. The core principle of AASB 15 is that an entity recognises revenue to depict the transfer of promised goods or services to customers in an amount that reflects the consideration to which the entity expects to be entitled in exchange for those goods or services.</p> <p>AASB 1058 is relevant in circumstances where AASB 15 does not apply. AASB 1058 replaces most of the not-for-profit (NFP) provisions of AASB 1004 <i>Contributions and applies to transactions where the consideration to acquire an asset is significantly less than fair value principally to enable the entity to further its objectives, and where volunteer services are received</i>.</p> <p>The details of the changes in accounting policies, transitional provisions and adjustments are disclosed below and in the relevant notes to the financial statements.</p>
AASB 16 <i>Leases</i>	<p>AASB 16 became effective on 1 July 2019.</p> <p>This new standard has replaced AASB 117 <i>Leases</i>, Interpretation 4 <i>Determining whether an Arrangement contains a Lease</i>, Interpretation 115 <i>Operating Leases – Incentives</i> and Interpretation 127 <i>Evaluating the Substance of Transactions Involving the Legal Form of a Lease</i>.</p> <p>AASB 16 provides a single lessee accounting model, requiring the recognition of assets and liabilities for all leases, together with options to exclude leases where the lease term is 12 months or less, or where the underlying asset is of low value. AASB 16 substantially carries forward the lessor accounting in AASB 117, with the distinction between operating leases and finance leases being retained. The details of the changes in accounting policies, transitional provisions and adjustments are disclosed below and in the relevant notes to the financial statements.</p> <p>The property lease has created a right of use asset and lease liability for the Commission. The Commission only has one lease that meets the criteria of AASB 16 for the recognition as right of use assets and associated liabilities. This has impacted the value of assets and liabilities and increased the depreciation expense.</p>

Future Australian accounting standard requirements

The following new, revised, amending standards and interpretation were issued by the Australian

Accounting Standards Board prior to the signing of the statement by the accountable authority and chief financial officer, which are expected to have a material impact on the OAIC's financial statements for future reporting period(s):

Standard/ Interpretation	Application date for the OAIC	Nature of impending change/s in accounting policy and likely impact on initial application
AASB 2018-7 Amendments to Australian Accounting Standards – Definition of Material	1 July 2020	The amendments to the definition of 'material' clarify that materiality will depend on the nature or magnitude of information or both. An entity will need to assess whether the information, either individually or in combination with other information, is material in the context of the financial statements. AASB 2018-7 aligns the definition of 'material' across AASB 101 Presentation of Financial Statements and AAS 108 Accounting Policies, Changes in Accounting Estimates and Errors and clarify certain aspects of the definition.
AASB 2019-2 Amendments to Australian Accounting Standards – Implementation of AASB 1059	1 July 2020	AASB 2019-2 amends AASB 16 and AASB 1059 primarily to provide a practical expedient to grantors of service concession arrangements so that AASB 16 needs not be applied to assets that would be recognised as service concession assets under AASB 1059. AASB 2019-2 clarifies measurement requirements of the liability of grantors that use the modified retrospective approach upon initial adoption of AASB 1059.
AASB 1059 Service Concession Arrangements: Grantors	1 July 2020	<p>AASB 1059 takes effect from 1 January 2020. It addresses the accounting for a service concession arrangement by a grantor that is a public sector entity. The standard requires a grantor to:</p> <ul style="list-style-type: none"> • Recognise a service concession asset constructed, developed or acquired from a third party by the operator, including an upgrade to an existing asset of the grantor when the grantor controls the asset. • Reclassify an existing asset as a service concession asset when it meets the criteria for recognition as a service concession asset. • Initially measure a service concession asset at current replacement cost in accordance with the cost approach to fair value in AASB 13 and subsequent to the initial recognition or reclassification of the asset, the service concession asset is accounted for in accordance with AASB 116 or AASB 138. • Recognise a corresponding liability measured initially at the fair value of the service concession asset, adjusted for any other consideration between the grantor and the operator, using either the financial liability model or the grant of a right to the operator model or both. <p>The new standard will have no impact on the OAIC.</p>
AASB 1060 General Purpose Financial Statements – Simplified Disclosures for For-Profit and Not-for-Profit Tier 2 Entities	1 July 2020	<p>AASB 1060 is the new simplified disclosure standard developed by the AASB based on IFRS for Small and Medium-sized Entities. It requires Tier 2 entities to follow the recognition and measurement requirements under Australian Accounting Standards but to apply the simplified disclosure requirements in AASB 1060. This standard will only apply to disclosures.</p> <p>Finance has yet to analyse the possible impact of this standard on entity financial statements.</p>

Application of AASB 15 Revenue from Contracts with Customers / AASB 1058 Income of Not-For-Profit Entities

The OAIC adopted AASB 15 and AASB 1058 using the modified retrospective approach, under which the cumulative effect of initial application is recognised in retained earnings at 1 July 2019. Accordingly, the comparative information presented for 2019 is not restated, that is, it is presented as previously reported under the various applicable AASBs and related interpretations.

Under the new income recognition model the OAIC shall first determine whether an enforceable agreement exists and whether the promises to transfer goods or services to the customer are 'sufficiently specific'. If an enforceable agreement exists and the promises are 'sufficiently specific' (to a transaction or part of a transaction), the OAIC applies the general AASB 15 principles to determine the appropriate revenue recognition. If these criteria are not met, the Entity shall consider whether AASB 1058 applies.

In relation to AASB 15, the OAIC elected to apply the new standard to all new and uncompleted contracts from the date of initial application. The OAIC is required to aggregate the effect of all of the contract modifications that occur before the date of initial application.

In terms of AASB 1058, the OAIC is required to recognise volunteer services at fair value if those services would have been purchased if not provided voluntarily, and the fair value of those services can be measured reliably.

Application of AASB 16 Leases

The OAIC adopted AASB 16 using the modified retrospective approach, under which the cumulative effect of initial application is recognised in retained earnings at 1 July 2019. Accordingly, the comparative information presented for 2019 is not restated, that is, it is presented as previously reported under AASB 117 and related interpretations.

The OAIC elected to apply the practical expedient to not reassess whether a contract is, or contains a lease at the date of initial application. Contracts entered into before the transition date that were not identified as leases under AASB 117 were not reassessed. The definition of a lease under AASB 16 was applied only to contracts entered into or changed on or after 1 July 2019.

AASB 16 provides for certain optional practical expedients, including those related to the initial adoption of the standard. The OAIC applied the following practical expedients when applying AASB 16 to leases previously classified as operating leases under AASB 117:

- Apply a single discount rate to a portfolio of leases with reasonably similar characteristics;
- Exclude initial direct costs from the measurement of right-of-use assets at the date of initial application for leases where the right-of-use asset was determined as if AASB 16 had been applied since the commencement date;
- Reliance on previous assessments on whether leases are onerous as opposed to preparing an impairment review under AASB 136 Impairment of assets as at the date of initial application; and
- Applied the exemption not to recognise right-of-use assets and liabilities for leases with less than 12 months of lease term remaining as of the date of initial application.

As a lessee, the OAIC previously classified leases as operating or finance leases based on its assessment of whether the lease transferred substantially all of the risks and rewards of ownership. Under AASB 16, the OAIC recognises right-of-use assets and lease liabilities for most leases. However, OAIC has elected not to recognise right-of-use assets and lease liabilities for some leases of low value assets based on the value of the underlying asset when new or for short-term leases with a lease term of 12 months or less.

On adoption of AASB 16, the OAIC recognised right-of-use assets and lease liabilities in relation to leases of office space which had previously been classified as operating leases.

The lease liabilities were measured at the present value of the remaining lease payments, discounted using the OAIC's incremental borrowing rate as at 1 July 2019. The OAIC's incremental borrowing rate is the rate at which a similar borrowing could be obtained from an independent creditor under comparable terms and conditions. The weighted average rate applied was 1.08%.

The right-of-use assets were measured as follows:

- a) Office space: measured at an amount equal to the lease liability, adjusted by the amount of any prepaid or accrued lease payments.
- b) All other leases: the carrying value that would have resulted from AASB 16 being applied from the commencement date of the leases, subject to the practical expedients noted above.

Impact on transition

On transition to AASB 16, the OAIC recognised additional right-of-use assets and additional lease liabilities, recognising the difference in retained earnings. The impact on transition is summarised below:

	1 July 2019 \$'000
Departmental	
Right-of-use assets – Property Lease	3,227
Lease liabilities	3,227
Retained earnings	739

The following table reconciles the Departmental minimum lease commitments disclosed in the OAIC's 30 June 2019 annual financial statements to the amount of lease liabilities recognised on 1 July 2019:

	1 July 2019 \$'000
Minimum operating lease commitment at 30 June 2019	4,357
Less: short-term leases not recognised under AASB 16	(115)
Less: low value leases not recognised under AASB 16	(121)
Undiscounted lease payments	4,121
Less: effect of discounting using the incremental borrowing rate as at the date of initial application	0
Less: Operating lease not commencing by 1 July 2019	(1,582)
Less: Other operating lease expenses included as part of commitments	(761)
Lease liabilities recognised at 1 July 2019	1,778

Taxation

The OAIC is exempt from all forms of taxation except Fringe Benefits Tax (FBT) and the Goods and Services Tax (GST).

Events after the reporting period

There are no known events after the reporting period that could have a material impact on the financial statements.

Financial performance

This section analyses the financial performance of Office of the Australian Information Commission for the year ended 2020.

1.1: Expenses

	2020 \$'000	2019 \$'000
1.1A: Employee benefits		
Wages and salaries	11,958	8,856
Superannuation		
Defined contribution plans	1,292	1,060
Defined benefit plans	436	918
Leave and other entitlements	1,293	1,123
Separation and redundancies	306	–
Other employee expenses	49	45
Total employee benefits	15,334	12,003

Accounting policy

Accounting policies for employee related expenses is contained in the People and relationships section.

	2020 \$'000	2019 \$'000
1.1B: Suppliers		
Goods and services supplied or rendered		
Insurance	22	23
Office consumables	64	47
Official travel	203	288
Printing and publications	51	22
Professional services and fees	3,425	2,858
Property Outgoing	415	292
Reference materials, subscriptions and licenses	252	147
Staff training	190	107
Telecommunications	56	31
Other	269	175
Total goods and services supplied or rendered	4,948	3,990
Goods supplied	367	216
Services rendered	4,581	3,774
Total goods and services supplied or rendered	4,948	3,990
Other suppliers		
Workers compensation expenses	35	25
Operating lease rentals in connection with Related parties		
Subleases	–	603
Short-term leases	667	–
Low value leases	113	–
Total other suppliers	815	628
Total suppliers	5,763	4,618

The OAIC has short-term lease commitments of \$0.056m as at 30 June 2020.

Accounting policy

Short-term leases and leases of low-value assets

The OAIC has elected not to recognise right-of-use assets and lease liabilities for short-term leases of assets that have a lease term of 12 months or less and leases of low-value assets (less than \$10,000). The entity recognises the lease payments associated with these leases as an expense on a straight-line basis over the lease term.

	2020 \$'000	2019 \$'000
1.1C: Finance costs		
Interest on property lease liabilities	24	–
Total finance costs	24	–

Accounting policy

All borrowing costs are expensed as incurred.

1.2: Own-source revenue and gains

	2020 \$'000	2019 \$'000
Own-source revenue		
1.2A: Revenue from contracts with customers		
Rendering of services	2,257	2,029
Total revenue from contracts with customers	2,257	2,029
Disaggregation of revenue from contracts with customers		
Major product / service line:		
Regulatory services	2,257	2,029
	2,257	2,029
Type of customer:		
Australian Government entities (related parties)	2,079	1,785
State and Territory Governments	178	244
	2,257	2,029
Timing of transfer of goods and services:		
Over time	2,257	2,029
	2,257	2,029

Accounting policy

Revenue from rendering of services is recognised by reference to the stage of completion of contracts at the reporting date.

The stage of completion of contracts at the reporting date is determined by reference to the proportion that costs incurred to date bear to the estimated total costs of the transaction. Receivables for goods and services, which have 30-day terms, are recognised at the nominal amounts due less any impairment allowance account. Collectability of debts is reviewed at end of the reporting period. Allowances are made when collectability of the debt is no longer probable.

	2020 \$'000	2019 \$'000
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1.2B: Other revenue

Resources received free of charge

Remuneration of auditors	36	36
Total other revenue	36	36

Accounting policy

Resources received free of charge

Resources received free of charge are recognised as revenue when, and only when, a fair value can be reliably determined and the services would have been purchased if they had not been donated. Use of those resources is recognised as an expense. Resources received free of charge are recorded as either revenue or gains depending on their nature.

	2020 \$'000	2019 \$'000
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Gains

1.2C: Other gains

Sale of assets	1	–
Total other gains	1	–

Accounting policy

Sale of assets

Gains from disposal of assets are recognised when control of the asset has passed to the buyer.

	2020 \$'000	2019 \$'000
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1.2D: Revenue from Government

Appropriations

Departmental appropriations	20,941	13,825
Total revenue from Government	20,941	13,825

Accounting policy

Revenue from Government

Amounts appropriated for departmental appropriations for the year (adjusted for any formal additions and reductions) are recognised as Revenue from Government when the entity gains control of the appropriation, except for certain amounts that relate to activities that are reciprocal in nature, in which case revenue is recognised only when it has been earned. Appropriations receivable are recognised at their nominal amounts.

Financial position

This section analyses the Office of the Australian Information Commissioner's assets used to conduct its operations and the operating liabilities incurred as a result.

Employee related information is disclosed in the People and relationships section.

2.1: Financial assets

	2020 \$'000	2019 \$'000
2.1A: Cash		
Cash on hand and at bank	3,590	601
Total cash and cash equivalents	3,590	601

Accounting policy

Cash is recognised at its nominal amount. Cash and cash equivalents includes cash on hand.

	2020 \$'000	2019 \$'000
2.1B: Trade and other receivables		
Goods and services receivables		
Goods and services	163	698
Total goods and services receivables	163	698
Appropriations receivables		
Appropriation receivable	4,126	3,736
Total appropriations receivables	4,126	3,736
Other receivables		
GST Receivable from the Australian Taxation Office	117	92
Total other receivables	117	92
Total trade and other receivables (gross)	4,406	4,526
Less impairment loss allowance	-	-
Total trade and other receivables (net)	4,406	4,526
Trade and other receivables (net) expected to be recovered		
No more than 12 months	4,406	4,526
Total trade and other receivables (net)	4,406	4,526

Accounting policy

Receivables

Receivables are measured at amortised cost using the effective interest method less impairment.

2.2: Non-financial assets

2.2A: Reconciliation of the opening and closing balances of property lease, infrastructure, plant and equipment and intangibles

Reconciliation of the opening and closing balances of property lease, infrastructure, plant and equipment and intangibles 2020

	Property Lease \$'000	Leashold Improvements \$'000	Leashold Improvements – Work in Progress \$'000	Computer, Plant and Equipment \$'000	Intangibles \$'000	Intangibles – Work in Progress \$'000	Total \$'000
As at 1 July 2019							
Gross book value	–	953	–	23	2,987	–	3,963
Accumulated depreciation, amortisation and impairment	–	(318)	–	(15)	(2,303)	–	(2,636)
Total as at 1 July 2019	–	635	–	8	684	–	1,327
Recognition of right of use asset on initial application of AASB 16	3,227	–	–	–	–	–	3,227
Adjusted total as at 1 July 2019	3,227	635	–	8	684	–	4,554
Additions		1,189	42	33	43	158	1,465
Revaluations and impairments recognised in other comprehensive income	–	31	–	4	–	–	35
Depreciation and amortisation	–	(357)	–	(12)	(189)	–	(558)
Depreciation on right-of-use assets	(1,676)	–	–	–	–	–	(1,676)
Disposals			–				–
Total as at 30 June 2020	1,551	1,498	42	33	538	158	3,821

	Property Lease \$'000	Leashold Improvements \$'000	Leashold Improvements – Work in Progress \$'000	Computer, Plant and Equipment \$'000	Intangibles \$'000	Intangibles – Work in Progress \$'000	Total \$'000
Total as at 30 June 2020 represented by							
Gross book value	3,227	1,498	42	33	3,030	158	7,988
Accumulated depreciation, amortisation and impairment	(1,676)	–	–	–	(2,492)	–	(4,167)
Total as at 30 June 2020	1,551	1,498	42	33	538	158	3,821
Carrying amount of right-of-use assets	1,551	–	–	–	–	–	1,551

No indicators of impairment were found for infrastructure, plant and equipment and intangibles.

No infrastructure, plant and equipment and intangibles are expected to be sold or disposed of within the next 12 months.

Revaluations of non-financial assets

All revaluations were conducted in accordance with the revaluation policy stated at Note 2.2. On 30 June 2020, an independent valuer conducted the revaluations.

Reconciliation of the opening and closing balances of infrastructure, plant and equipment and intangibles for 2019

	Property Lease \$'000	Leashold Improvements \$'000	Computer, Plant and Equipment \$'000	Intangibles \$'000	Intangibles – Work in Progress \$'000	Total \$'000
As at 1 July 2018						
Gross book value	–	953	24	2,782	–	3,759
Accumulated depreciation, amortisation and impairment	–	–	–	(2,172)	–	(2,172)
Total as at 1 July 2018	–	953	24	610	–	1,587
Additions	–	–	–	205	–	205
Depreciation and amortisation	–	(318)	(15)	(131)	–	(464)
Disposals			(1)			(1)
Total as at 30 June 2019	–	635	8	684	–	1,327
Total as at 30 June 2019 represented by						
Gross book value	–	953	23	2,987	–	3,963
Accumulated depreciation, amortisation and impairment	–	(318)	(15)	(2,303)	–	(2,636)
Total as at 30 June 2019	–	635	8	684	–	1,327

Accounting policy

Assets are recorded at cost on acquisition except as stated below. The cost of acquisition includes the fair value of assets transferred in exchange and liabilities undertaken. Financial assets are initially measured at their fair value plus transaction costs where appropriate.

Assets acquired at no cost, or for nominal consideration, are initially recognised as assets and income at their fair value at the date of acquisition, unless acquired as a consequence of restructuring of administrative arrangements. In the latter case, assets are initially recognised as contributions by owners at the amounts at which they were recognised in the transferor's accounts immediately prior to the restructuring.

Asset recognition threshold

Purchases of property, plant and equipment are recognised initially at cost in the statement of financial position, except for purchases costing less than \$5,000 which are expensed in the year of acquisition (other than where they form part of a group of similar items which are significant in total).

The initial cost of an asset includes an estimate of the cost of dismantling and removing the item and restoring the site on which it is located. This is particularly relevant to 'make good' provisions in property leases taken up by the entity where there exists an obligation to restore the property to its original condition. These costs are included in the value of leasehold improvements with a corresponding provision for the 'make good' recognised.

Lease Right of Use (ROU) assets

Leased ROU assets are capitalised at the commencement date of the lease and comprise of the initial lease liability amount, initial direct costs incurred when entering into the lease less any lease incentives received. These assets are accounted for by Commonwealth lessees as separate asset classes to corresponding assets owned outright, but included in the same column as where the corresponding underlying assets would be presented if they were owned.

On initial adoption of AASB 16 the OAIC has adjusted the ROU assets at the date of initial application by the amount of any provision for onerous leases recognised immediately before the date of initial application. Following initial application, an impairment review is undertaken for any right of use lease asset that shows indicators of impairment and an impairment loss is recognised against any right of use lease asset that is impaired. Lease ROU assets continue to be measured at cost after initial recognition in Commonwealth agency, GGS and Whole of Government financial statements.

Revaluations

Following initial recognition at cost, property, plant and equipment (**excluding ROU assets**) are carried at fair value (or an amount not materially different from fair value) less subsequent accumulated depreciation and accumulated impairment losses. Valuations are conducted with sufficient frequency to ensure that the carrying amounts of assets did not differ materially from the assets' fair values as at the reporting date. The regularity of independent valuations depended upon the volatility of movements in market values for the relevant assets.

Revaluation adjustments are made on a class basis. Any revaluation increment is credited to equity under the heading of asset revaluation reserve except to the extent that it reversed a previous revaluation decrement of the same asset class that was previously recognised in the surplus/deficit.

Revaluation decrements for a class of assets are recognised directly in the surplus/deficit except to the extent that they reversed a previous revaluation increment for that class.

Any accumulated depreciation as at the revaluation date is eliminated against the gross carrying amount of the asset and the asset restated to the revalued amount.

Depreciation

Depreciable property, plant and equipment assets are written-off to their estimated residual values over their estimated useful lives to the entity using, in all cases, the straight-line method of depreciation.

Depreciation rates (useful lives), residual values and methods are reviewed at each reporting date and necessary adjustments are recognised in the current, or current and future reporting periods, as appropriate.

Depreciation rates applying to each class of depreciable asset are based on the following useful lives:

	2020	2019
Leasehold improvements	Lease term	Lease term
Computer, plant and equipment	4 to 10 years	4 to 10 years

The depreciation rates for ROU assets are based on the commencement date to the earlier of the end of the useful life of the ROU asset or the end of the lease term.

Impairment

All assets were assessed for impairment at 30 June 2019. Where indications of impairment exist, the asset's recoverable amount is estimated and an impairment adjustment made if the asset's recoverable amount is less than its carrying amount.

The recoverable amount of an asset is the higher of its fair value less costs of disposal and its value in use. Value in use is the present value of the future cash flows expected to be derived from the asset. Where the future economic benefit of an asset is not primarily dependent on the asset's ability to generate future cash flows, and the asset would be replaced if the entity were deprived of the asset, its value in use is taken to be its depreciated replacement cost.

Derecognition

An item of property, plant and equipment is derecognised upon disposal or when no further future economic benefits are expected from its use or disposal.

Intangibles

The entity's intangibles comprise internally developed software for internal use. These assets are carried at cost less accumulated amortisation and accumulated impairment losses.

Software is amortised on a straight-line basis over its anticipated useful life. The useful lives of the Commission's software are 2 to 5 years (2019: 2 to 5 years years).

All software assets were assessed for indications of impairment as at 30 June 2020.

Accounting judgements and estimates

The fair value of infrastructure, plant and equipment has been taken to be the market value of similar assets as determined by an independent valuer.

	2020 \$'000	2019 \$'000
2.2B: Other non-financial assets		
Prepayments	526	483
Total other non-financial assets	526	483
Other non-financial assets expected to be recovered		
No more than 12 months	526	483
Total other non-financial assets	526	483

No indicators of impairment were found for other non-financial assets.

2.3: Payables

	2020 \$'000	2019 \$'000
2.3A: Suppliers		
Trade creditors and accruals	2,656	880
Rent Payable	-	251
Total suppliers	2,656	1,131
Suppliers expected to be settled		
No more than 12 months	2,656	943
More than 12 months	-	188
Total suppliers	2,656	1,131

Settlement is generally made in accordance with the terms of the supplier invoice.

	2020 \$'000	2019 \$'000
2.3B: Other payables		
Salaries and wages	170	61
Superannuation	30	12
Other employee expenses	6	-
Revenue received in advance	616	1,298
Lease incentives	-	488
Total other payables	822	1,859
Other payables to be settled		
No more than 12 months	822	1,859
Total other payables	822	1,859

2.4: Interest bearing liabilities

	2020 \$'000	2019 \$'000
2.4A: Leases		
Property lease liabilities	1,615	–
Total leases	1,615	–

Total cash outflow for property leases for the year ended 30 June 2020 was \$1,636m.

Accounting policy

Refer Overview section for accounting policy on leases.

Funding

This section identifies the Office of the Australian Information Commissioner’s funding structure.

3.1: Appropriations

3.1A: Annual appropriations (‘recoverable GST exclusive’)

Annual appropriations for 2020

Departmental	Annual Appropriation ¹ \$'000	Adjustments to appropriation ² \$'000	Total appropriation \$'000	Appropriation applied in 2020 (current and prior years) \$'000	Variance ³ \$'000
Ordinary annual services	21,270	3,589	24,859	(20,037)	4,822
Other services					
Equity Injections	2,000	–	2,000	(1,250)	750
Total departmental	23,270	3,589	26,859	(21,287)	5,572

1 Adjustments including for PGPA Act Section 74 receipts.

2 Variance represents the application of current and previous years appropriation and own-source revenue.

Annual appropriations for 2019

	Annual Appropriation \$'000	Adjustments to appropriation ¹ \$'000	Total appropriation \$'000	Appropriation applied in 2019 \$'000	Variance ² \$'000
Departmental					
Ordinary annual services	13,496	552	14,048	(16,931)	(2,883)
Other services					
Equity Injections	860	–	860	(160)	700
Total departmental	14,356	552	14,908	(17,091)	(2,183)

1 Adjustments including for PGPA Act Section 74 receipts.

2 Variance represents the application of current and previous years appropriation and own-source revenue.

3.1B: Unspent annual appropriations ('recoverable GST exclusive')

	2020 \$'000	2019 \$'000
Departmental		
Appropriation Act (No. 1) 2018–19	–	3,074
Appropriation Act (No. 2) 2018–19	–	700
Appropriation Act (No. 1) 2019–20	5,074	–
Supply Act (No.1) 2019–20	601	–
Appropriation Act (No. 2) 2019–20	750	–
Total departmental	6,425	3,774

3.2: Net cash appropriation arrangements

	2020 \$'000	2019 \$'000
Total comprehensive income/(loss) less depreciation/amortisation expenses previously funded through revenue appropriations	472	(731)
Plus: depreciation/amortisation expenses previously funded through revenue appropriation	(558)	(464)
Plus: depreciation right-of-use assets	(1,676)	–
Less: principal repayments – leased assets	1,612	–
Total comprehensive income/(loss) – as per the Statement of Comprehensive Income	(150)	(1,195)
Total comprehensive income – as per the Statement of Comprehensive Income	(150)	(1,195)

People and relationships

This section describes a range of employment and post employment benefits provided to our people and our relationships with other key people.

4.1: Employee provisions

	2020 \$'000	2019 \$'000
4.1A: Employee provisions		
Leave	2,949	2,303
Total employee provisions	2,949	2,303
Employee provisions expected to be settled		
No more than 12 months	2,257	1,765
More than 12 months	692	538
Total employee provisions	2,949	2,303

Accounting policy

Liabilities for short-term employee benefits and termination benefits expected within twelve months of the end of reporting period are measured at their nominal amounts.

Leave

The liability for employee benefits includes provision for annual leave and long service leave. The leave liabilities are calculated on the basis of employees' remuneration at the estimated salary rates that will be applied at the time the leave is taken, including the OAIC's employer superannuation contribution rates to the extent that the leave is likely to be taken during service rather than paid out on termination.

The liability for long service leave has been determined by reference to the work of an actuary performed for the Department of Finance (DoF) and summarised in the Standard Parameters for use in 2019–20 Financial Statements published on the DoF website. The estimate of the present value of the liability takes into account attrition rates and pay increases through promotion and inflation.

Separation and redundancy

Provision is made for separation and redundancy benefit payments. The entity recognises a provision for termination when it has developed a detailed formal plan for the terminations and has informed those employees affected that it will carry out the terminations.

Superannuation

The OAIC's staff are members of the Commonwealth Superannuation Scheme (CSS), the Public Sector Superannuation Scheme (PSS), or the PSS accumulation plan (PSSap), or other superannuation funds held outside the Australian Government.

The CSS and PSS are defined benefit schemes for the Australian Government. The PSSap is a defined contribution scheme.

The liability for defined benefits is recognised in the financial statements of the Australian Government and is settled by the Australian Government in due course. This liability is reported in DoF's schedules and notes.

The OAIC makes employer contributions to the employees' defined benefit superannuation scheme at rates determined by an actuary to be sufficient to meet the current cost to the Government. The OAIC accounts for the contributions as if they were contributions to defined contribution plans.

The liability for superannuation recognised as at 30 June represents outstanding contributions for the final fortnight of the financial year.

Accounting judgements and estimates

The long service leave has been estimated in accordance with the FRR taking into account expected salary growth, attrition and future discounting using the government bond rate.

4.2: Key management and personnel remuneration

Key management personnel are those persons having authority and responsibility for planning, directing and controlling the activities of the Commission. The OAIC has determined the key management personnel to be the Information Commissioner and Deputy Information Commissioner.

	2020 \$'000	2019 \$'000
Short-term employee benefits	724	879
Post-employment benefits	84	101
Other long-term employee benefits	22	25
Termination benefits	–	–
Total key management personnel remuneration expenses¹	830	1,005

The total number of key management personnel that are included in the above table are 2 (2019: 4).

- 1 The above key management personnel remuneration excludes the remuneration and other benefits of the Portfolio Minister. The Portfolio Minister's remuneration and other benefits are set by the Remuneration Tribunal and are not paid by the entity.

4.3: Related party disclosures

Related party relationships

The OAIC is an Australian Government controlled entity. Related parties to this entity are Key Management Personnel including the Portfolio Minister and Cabinet and Executive, and other Australian Government entities.

Transactions with related parties

Given the breadth of Government activities, related parties may transact with the government sector in the same capacity as ordinary citizens. Such transactions include the payment or refund of taxes, receipt of a Medicare rebate or higher education loans. These transactions have not been separately disclosed in this note.

The following transactions with related parties occurred during the financial year:

Significant transactions with related parties can include:

- the payments of grants or loans
- purchases of goods and services
- asset purchases, sales transfers or leases
- debts forgiven, and
- guarantees.

Giving consideration to relationships with related entities, and transactions entered into during the reporting period by the entity, it has been determined that there are no related party transactions to be separately disclosed.

Disclosure of transactions with related parties is required to include comparatives (AASB 124.32 and AASB 101).

Managing uncertainties

This section analyses how the Office of the Australian Information Commissioner manages financial risks within its operating environment.

5.1: Contingent assets and liabilities

Quantifiable contingencies

At the time signing these financial statements, the OAIC had no quantifiable contingent liabilities.

Unquantifiable contingencies

As at 30 June 2020 the Australian Information Commissioner (AIC) was a respondent to 2 matters in the Federal Court of Australia (FCA) and a respondent in 2 matters in the Federal Circuit Court (FCC).

Three matters before the federal courts in which the AIC was a respondent are *Administrative Decisions (Judicial Review) Act 1977* (ADJR) reviews of

decisions to finalise privacy complaints and 1 matter is a civil penalty proceedings under the Privacy Act 1988 (Privacy Act).

Although the federal courts may award costs, the AIC’s exposure to a costs order is highly unlikely in all matters, based on current legal advice. It is not possible to estimate the amounts of payment(s) that may be required in relation to the matters where a costs order may materialise at the conclusion of the matter.

The AIC is also a respondent to 2 matters in the Administrative Appeals Tribunal, one (1) of which is in relation to a direction given by the AIC under section 26WQ of the *Privacy Act 1988* and 1 of which was in relation to a declaration made by the AIC under s 89K of the *Freedom of Information Act 1982*. However, as the Tribunal is a ‘no costs’ jurisdiction consideration of contingent liabilities is not necessary in these matters.

Accounting policy

Contingent liabilities and contingent assets are not recognised in the statement of financial position but are reported in the notes. They may arise from uncertainty as to the existence of a liability or asset or represent an asset or liability in respect of which the amount cannot be reliably measured. Contingent assets are disclosed when settlement is probable but not virtually certain and contingent liabilities are disclosed when settlement is greater than remote.

5.2: Financial instruments

	2020 \$'000	2019 \$'000
5.2A: Categories of financial instruments		
Financial assets at amortised cost		
Cash on hand and at bank	3,590	601
Trade and other receivables	163	698
Total financial assets at amortised cost	3,753	1,299
Total financial assets	3,753	1,299
Financial Liabilities		
Financial liabilities measured at amortised cost		
Trade creditors and accruals	2,656	1,131
Total financial liabilities measured at amortised cost	2,656	1,131
Total financial liabilities	2,656	1,131

Accounting policy

Financial assets

With the implementation of AASB 9 *Financial Instruments* for the first time in 2019, the entity classifies its financial assets in the following categories:

- a) financial assets at fair value through profit or loss;
- b) financial assets at fair value through other comprehensive income; and
- c) financial assets measured at amortised cost.

The classification depends on both the entity's business model for managing the financial assets and contractual cash flow characteristics at the time of initial recognition. Financial assets are recognised when the entity becomes a party to the contract and, as a consequence, has a legal right to receive or a legal obligation to pay cash and derecognised when the contractual rights to the cash flows from the financial asset expire or are transferred upon trade date.

Comparatives have not been restated on initial application.

Financial assets at amortised cost

Financial assets included in this category need to meet two criteria:

1. the financial asset is held in order to collect the contractual cash flows; and
2. the cash flows are solely payments of principal and interest (SPPI) on the principal outstanding amount.

Amortised cost is determined using the effective interest method.

Effective interest method

Income is recognised on an effective interest rate basis for financial assets that are recognised at amortised cost.

Impairment of financial assets

Financial assets are assessed for impairment at the end of each reporting period based on Expected Credit Losses, using the general approach which measures the loss allowance based on an amount equal to *lifetime expected credit losses* where risk has significantly increased, or an amount equal to *12-month expected credit losses* if risk has not increased.

The simplified approach for trade, contract and lease receivables is used. This approach always measures the loss allowance as the amount equal to the lifetime expected credit losses.

A write-off constitutes a derecognition event where the write-off directly reduces the gross carrying amount of the financial asset.

Financial liabilities

Financial liabilities are classified as either financial liabilities ‘at fair value through profit or loss’ or other financial liabilities. Financial liabilities are recognised and derecognised upon ‘trade date’.

Financial liabilities at amortised cost

Financial liabilities, including borrowings, are initially measured at fair value, net of transaction costs. These liabilities are subsequently measured at amortised cost using the effective interest method, with interest expense recognised on an effective interest basis.

Supplier and other payables are recognised at amortised cost. Liabilities are recognised to the extent that the goods or services have been received (and irrespective of having been invoiced).

5.3: Fair value measurement

The following table provides an analysis of assets and liabilities that are measured at fair value. The remaining assets and liabilities disclosed in the statement of financial position do not apply the fair value hierarchy.

The different levels of the fair value hierarchy are defined below.

Level 1: Quoted prices (unadjusted) in active markets for identical assets or liabilities that the entity can access at measurement date.

Level 2: Inputs other than quoted prices included within Level 1 that are observable for the asset or liability, either directly or indirectly.

Level 3: Unobservable inputs for the asset or liability.

Accounting policy

The OAIC considers the fair value hierarchy levels at the end of the reporting period. There were no transfers in or out of any levels during the reporting period.

5.1A: Fair value measurement

Fair value measurements at the end of the reporting period				
	2020 \$'000	2019 \$'000	Category (Level 1, 2 or 3)	Valuation Technique(s) and Inputs Used
Non-financial assets ¹				Market approach. Market replacement cost less estimate of written down value of asset used.
Infrastructure, plant and equipment	1,573	643	2	

1 There was no non-financial asset where the highest and best use differed from its current use during the reporting period.

Other information

6.1: Aggregate assets and liabilities

6.1A: Aggregate assets and liabilities

	2020 \$'000	2019 \$'000
Assets expected to be recovered in:		
No more than 12 months	4,932	5,010
Total assets	4,932	5,010
Liabilities expected to be settled in:		
No more than 12 months	2,437	3,378
More than 12 months	692	784
Total liabilities	3,129	4,162



Part 5

Appendices

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Appendix A: Agency resource statement and resources for outcomes

Table A.1: OAIC resource statement 2019–20

	Actual available appropriation for 2019–20 \$'000 (a)	Payments made 2019–20 \$'000 (b)	Balance remaining for 2019–20 \$'000 (a) – (b)
Ordinary annual services*			
Departmental appropriation	23,527	17,852	5,675
Total	23,527	17,852	5,675
Administered expenses			
Total ordinary annual services A	23,527	17,852	
Other services			
Administered expenses	–	–	
Departmental non-operating	–	–	
Equity injections†	2,000	1,250	750
Administered non-operating			
Total other services B	2,000	1,250	750
Total available annual appropriations and payments	25,527	19,102	6,425
Special appropriations	–	–	
Total special appropriations C			
Special accounts	–	–	
Total special accounts D	–	–	
Total resourcing and payments A + B + C + D	25,527	19,102	
Less appropriations drawn from annual or special appropriations above and credited to special accounts	–	–	
And/or payments to corporate entities through annual appropriations	–	–	
Total net resourcing and payments for the OAIC	25,527	19,102	

Note

All figures are GST exclusive.

* *Appropriation Act (No. 1) 2019–2020*. Includes *Public Governance, Performance and Accountability Act 2013* (PGPA Act 2013) and s 74 retained revenue receipts.

† *Appropriation Act (No. 2) 2019–2020*.

Table A.2: OAIC resource statement 2019–20

	Budget 2019–20 \$'000 (a)	Actual expenses 2019–20 \$'000 (b)	Variation 2019–20 \$'000 (a) – (b)
Outcome 1			
Provision of public access to Commonwealth Government information, protection of individuals' personal information, and performance of Information Commissioner, freedom of information and privacy functions			
Program 1.1			
Complaint handling, compliance and monitoring, and education and promotion			
Administered expenses	–	–	–
Departmental expenses			
Departmental appropriation*	23,527	21,097	2,430
Special appropriations	–	–	–
Special accounts	–	–	–
Expenses not requiring appropriation in the Budget year	332	558	(226)
Total for program 1.1	23,859	21,655	2,204
Outcome 1 totals by appropriation type			
Administered expenses	–	–	–
Departmental expenses			
Departmental appropriation*	23,527	21,097	2,430
Special appropriations	–	–	–
Special accounts	–	–	–
Expenses not requiring appropriation in the Budget year	332	558	(226)
Total expenses for outcome 1	23,859	21,655	2,204
	2019–20	2019–20	
Average staffing level (number)	124	95.4	28.6

* Departmental appropriation combines ordinary annual services (*Appropriation Act (No. 1) 2019–2020*) and PGPA Act 2013, s 74 retained revenue receipts.

Appendix B: Executive remuneration

This appendix contains information about the remuneration of the Office Australian Information Commissioner’s (OAIC) key management personnel and Senior Executive Service.

Key management personnel

The OAIC has determined that our key management personnel (KMP) are the Australian Information Commissioner and the Deputy Commissioner. Ms Angelene Falk held the position of Australian Information Commissioner for the duration of the reporting period.

Details of KMP remuneration are in Note 4.2 of the financial statements. Disaggregated information is shown in Table B.1 and is prepared in accordance with the *Public Governance, Performance and Accountability Rule 2014* (PGPA Rule) and *Commonwealth Entities Executive Remuneration Reporting Guide for Annual Reports, Resource Management Guide No. 138* (RMG 138).

Senior Executive Service

The OAIC has 3 permanent and 1 temporary substantive Senior Executive Service (SES) positions including the Deputy Commissioner; the Assistant Commissioner, Dispute Resolution; the Assistant Commissioner, Regulation and Strategy; and the Assistant Commissioner – Corporate.

Table B.2 is prepared in accordance with the PGPA Rule and RMG 138 and provides the average annual reportable remuneration for substantive SES.

Remuneration policies and practices

In accordance with s 17 of the *Australian Information Commissioner Act 2010*, the Australian Information Commissioner’s remuneration is set by the Remuneration Tribunal. The Remuneration Tribunal also determine increases to remuneration or allowances.

The OAIC’s SES remuneration is determined by the Australian Information Commissioner under s 24(1) of the *Public Service Act 1999*. When determining SES remuneration, the Australian Information Commissioner has regard to the Australian Public Service Commission’s Australian Public Service Remuneration Report and comparable agencies.

SES determinations set out the salary on commencement and provide for increments in salary, in line with any percentage up to 5% set by the Remuneration Tribunal for the Australian Information Commissioner.

To be eligible for an increase in salary an SES officer must obtain an annual performance rating of effective or above. The OAIC’s performance management framework, Talking About Performance, enables SES officers’ performance agreements. The agreement objectives are directly linked to the SES officer’s business line responsibilities of the OAIC’s Corporate Plan.

The Australian Information Commissioner sets and reviews the Deputy Commissioner’s performance agreement. The Deputy Commissioner sets and reviews Assistant Commissioners’ performance agreements.

Remuneration governance arrangements

As a small agency, the Information Commissioner is responsible for setting and monitoring remuneration for the OAIC's SES officers.

Table B.1: KMP remuneration

Name	Position title	Short-term benefits			Post-employment benefits	Other long-term benefits			Total remuneration (\$)
		Base salary (\$)	Bonuses (\$)	Other benefits and allowances (\$)	Superannuation contributions (\$)	Long service leave (\$)	Other long-term benefits (\$)	Termination benefits (\$)	
Angelene Falk	Australian Information Commissioner	449,080	–	–	34,046	13,217	–	–	496,343
Elizabeth Hampton	Deputy Commissioner	275,264	–	–	50,299	8,601	–	–	334,164
Total		724,344	–	–	84,345	21,818	–	–	830,507

Table B.2: Average SES remuneration

		Short-term benefits			Post-employment benefits	Other long-term benefits	Termination benefits	Total remuneration	
Remuneration band	Number of senior executives	Average base salary (\$)	Average bonuses (\$)	Average other benefits and allowances (\$)	Average superannuation contributions (\$)	Average long service leave (\$)	Average other long-term benefits (\$)	Average termination benefits (\$)	Average total remuneration (\$)
\$0 – \$220,000	4	111,872	–	–	24,525	6,357	–	–	142,754

Appendix C: Memorandums of understanding

Australian Capital Territory Government

Under our MOU with the Australian Capital Territory (ACT) Government we continue to provide privacy services to ACT public sector agencies in relation to the *Information Privacy Act 2014* (ACT). These services included:

- responding to privacy complaints and enquiries about ACT public sector agencies
- providing policy and legislation advice and guidance
- providing advice on data breach notifications, where applicable
- carrying out a privacy assessment.

For these services, we received \$177,500 (GST exclusive) from the ACT Government.

For further information on our activities under this MOU, see the *Memorandum of Understanding with the Australian Capital Territory for the Provision of Privacy Services: Annual Report 2019-20* on the OAIC website.

Australian Digital Health Agency

Under our MOU with the Australian Digital Health Agency, the OAIC continued to provide support and assistance on privacy matters relating to both the My Health Record system and the Healthcare Identifiers Service. These services included:

- responding to enquiries and complaints relating to the privacy aspects of the My Health Record system and Healthcare Identifiers Service

- investigating acts and practices that may have been a misuse of healthcare identifiers or a contravention of the My Health Record system, if required
- receiving data breach notifications and providing advice
- investigating failures to notify My Health Record system data breaches
- conducting privacy assessments
- providing guidance material for individuals and participants in the My Health Record system and Healthcare Identifiers Service
- liaising and coordinating on privacy-related matters and activities with key stakeholders
- preparing relevant communication materials
- providing policy and legislation advice relating to the privacy aspects of the My Health Record system and the Health Identifiers Service
- monitoring and participating in digital health developments.

During this reporting period, we received \$2,070,000 (GST exclusive).

For further information on our activities under this MOU, see the *Annual Report of the Australian Information Commissioner's Activities in Relation to Digital Health 2019-20* on the OAIC website.

Australian Human Rights Commission

The OAIC entered into a new MOU with the Australian Human Rights Commission (AHRC) for the provision of corporate services on 18 November 2019.

Under this MOU, the AHRC provides a number of corporate services to the OAIC, including financial, information technology and human resource related tasks. We also sublet premises in Sydney from the AHRC.

For the corporate services, we paid 1,379,361 (GST exclusive) and for the premises (including outgoings) we paid \$1,152,281 (GST exclusive) to the AHRC.

Department of Home Affairs – NFBMC

In November 2017, the Attorney-General’s Department and the OAIC signed an MOU for the provision of privacy assessments in relation to the National Facial Biometric Matching Capability (NFBMC).

On 20 December 2017, the Department of Home Affairs assumed responsibility for the NFBMC as part of machinery of government changes and subsequently assumed responsibility for the roles and responsibilities under the MOU.

In February 2018, the Identity-matching Services Bill 2018 was introduced into Parliament but was not passed, so our privacy assessments have been deferred to later financial years. In May 2019 and June 2020, we signed variations to the MOU to defer commencing privacy assessments and associated payments to later years.

Department of Home Affairs – PNR data assessment

Under our MOU with the Department of Home Affairs we provide a Passenger Name Record (PNR) data-related assessment of whether personal information is being maintained and handled in accordance with the Australian Privacy Principles.

By agreement, no assessment was undertaken this financial year.

Note The agreement between Australia and the European Union (EU) on the processing and transfer of PNR data states that, ‘The Australian Customs and Border Protection Service has arrangements in place under the Privacy Act for the Information Commissioner to undertake regular formal audits of all aspects of Australian Customs and Border Protection Service’s EU-sourced PNR data use, handling and access policies and procedures.’

Appendix D: Privacy statistics

Privacy complaints

Table D.1: Australian Privacy Principles (APP) issues in privacy complaints in 2019–20

APP issue	Number of complaints	% of total
Use or disclosure of personal information (APP 6)	831	27.3
Security of personal information (APP 11)	781	25.7
Access to personal information (APP 12)	445	14.6
Collection of solicited personal information (APP 3)	378	12.4
Quality of personal information (APP 10)	294	9.7
Direct marketing (APP 7)	106	3.5
Notification of the collection of personal information (APP 5)	106	3.5
Correction of personal information (APP 13)	45	1.5
Open and transparent management of personal information (APP 1)	24	0.8
Dealing with unsolicited personal information (APP 4)	12	0.4
Cross-border disclosure of personal information (APP 8)	10	0.3
Adoption, use or disclosure of government related identifiers (APP 9)	6	0.2
Anonymity and pseudonymity (APP 2)	3	0.1
Total	3,041	

Note

A complaint may cover more than one issue.

Table D.2: The main remedies agreed in conciliated privacy complaints in 2019–20

Remedy*	Jurisdiction							Total
	Privacy Principles†	Credit reporting	Spent convictions & TFN	Healthcare identifiers	Jurisdiction	My Health Record	NDB scheme	
Compensation	255	12	2	–	–	–	3	272
Record amended	232	67	1	–	–	6	–	306
Apology	229	14	3	1	–	–	–	247
Access provided	209	6	–	–	–	1	–	216
Other & confidential	195	25	1	–	1	4	–	226
Changed procedures	146	5	–	1	–	–	–	152
Staff training or counselling	127	6	–	–	–	–	–	133
Total	1,393	135	7	2	1	11	3	1,552

* A resolved complaint may involve more than one type of remedy.

† Includes APPs, National Privacy Principles and the Australian Capital Territory's Territory Privacy Principles.

Table D.3: Compensation amounts in closed privacy complaints in 2019–20

Compensation	Jurisdiction				Total
	Privacy Principles*	Credit reporting	Spent convictions & TFN	NDB scheme	
Up to \$1,000	82	4	–	–	86
\$1,000 to \$5,000	93	8	–	2	103
\$5,001 to \$10,000	30	–	–	1	31
Over \$10,001	50	–	2	–	52

* Only includes APP complaints.

Table D.4: Privacy assessments in 2019–20

Privacy assessment subject		Number of entities assessed	Year opened	Date closed
1	Department of Home Affairs (previously DIBP) – passenger name record	1	2016–17	July 2019
2	Data retention scheme – telecommunications service provider 2	1	2017–18	January 2020
3	Department of Home Affairs (previously DIBP) – connected information environment	1	2017–18	November 2019
4	ACT Government – ACT Housing	1	2017–18	December 2019
5	Data retention scheme – telecommunications service provider 3	1	2018–19	January 2020
6	Data retention scheme – telecommunications service provider 4	1	2018–19	January 2020
7	Unique Student Identifier Transcript Service	1	2018–19	August 2019
8	ACT Government	10	2018–19	July 2019
9	ACT Government – Access Canberra	1	2019–20	Ongoing
10	Department of Home Affairs – Passenger Name Records	1	2019–20	Ongoing
11	COVIDSafe Assessment 1 – Access Controls National Data Store	2	2019–20	Ongoing

Table D.5: Digital health assessments in 2019–20

Privacy assessment subject		Number of entities assessed	Year opened	Date closed
Handling of individual healthcare identifiers by a private healthcare operator		1	2017–18	December 2019
Australian Digital Health Agency – handling of personal information		1	2017–18	June 2020
Access security governance for the My Health Record system – pharmacies		14	2018–19	December 2019
Access security governance for the My Health Record system – pathology and diagnostic imaging services		8	2018–19	Ongoing
Access security governance for the My Health Record system – private hospitals		2	2018–19	June 2020
My Health Record, Mobile Apps Combined APP 1.2 and 5 assessment		2	2019–20	Ongoing

Table D.6: Enhanced welfare payment integrity (data matching) assessments

Privacy assessment subject	Number of entities assessed	Year opened	Date closed
Department of Human Services Pay-As-You-Go (PAYG) data-matching program	1	2017–18	July 2019
Department of Human Services – information security for the NEIDM and PAYG programs	1	2017–18	Ongoing
Australian Taxation Office – information security as a data source for the Department of Human Services	1	2018–19	June 2020
Department of Veterans Affairs – APP 1.2 Assessment	1	2019–20	Ongoing
Department of Human Services – Annual Investment Income Report data-matching program	1	2019–20	Ongoing

Appendix E: FOI statistics

This appendix contains information regarding:

- requests for access to documents
- applications for amendment of personal records
- charges
- disclosure logs
- review of freedom of information (FOI) decisions
- complaints about agency FOI actions
- the impact of FOI on agency resources
- the impact of Information Publication Scheme (IPS) on agency resources.

It has been prepared using data collected from Australian Government agencies and ministers subject to the *Freedom of Information Act 1982* (FOI Act), and separately from the Administrative Appeals Tribunal (AAT) and records of the Office of the Australian Information Commissioner (OAIC). Australian Government agencies and ministers are required to provide, among other details, information about:

- the number of FOI requests made to them
- the number of decisions they made granting, partially granting or refusing access, and the number and outcome of applications for internal review
- the number and outcome of requests to them to amend personal records
- charges collected by them.¹

¹ Australian Government ministers and agencies, and Norfolk Island authorities, are required by s 93 of the FOI Act and reg 8 of the *Freedom of Information (Prescribed Authorities, Principal Offices and Annual Report) Regulations 2017* to submit statistical returns to the OAIC every quarter and provide a separate annual report on FOI and IPS costs.

The data given by ministers and agencies for the preparation of this appendix is published on data.gov.au.²

Requests for access to documents

Types of FOI requests

The term ‘FOI request’ means a request for access to documents made under s 15 of the FOI Act. Applications for amendment or annotation of personal records under s 48 are dealt with separately below.

A request for personal information means a request for documents that contain information about a person who can be identified (usually the applicant, although not necessarily). A request for ‘other’ information means a request for all other documents, such as documents concerning policy development or government decision-making.

The FOI Act requires that agencies and ministers provide access to documents in response to requests that meet the requirements of s 15 of the FOI Act. The statistics in this annual report do not take account of requests that did not satisfy those requirements.

The Governor-General authorised 2 Administrative Arrangements Orders (AAOs) in 2019–20: on 8 August 2019 and 5 December 2019. These AAOs changed the functions and administrative responsibilities of some departments and agencies and resulted in changes to the number and composition of FOI requests received by the affected agencies during the year.

² The data reported in this appendix has been rounded to whole numbers. In some cases this means that numbers will not add to 100%.

Number of FOI requests received

Table E.1 compares the number of FOI requests received in each of the past 6 reporting years, including the percentage increase or decrease from the previous financial year.

Table E.1: FOI requests received over the past 6 years

	2014–15	2015–16	2016–17	2017–18	2018–19	2019–20
Number of FOI requests received	35,550	37,966	39,519	34,438	38,879	41,333
% change from previous financial year	+25	+7	+4	–13	+13	+6

The number of FOI requests made to Australian Government agencies increased by 6% in 2019–20, to 41,333, the largest number of FOI requests received by the Australian Government since 2005–06.

As can be seen from Table E.2 (page 141), the increase in the number of FOI requests has principally been the result of increases in requests made to the 20 agencies that receive the highest number of FOI requests, in particular, Services Australia (formerly the Department of Human Services).

While some agencies have attributed increases in the number of FOI requests received during 2019–20 to the impact of the COVID-19 pandemic, the increase in total FOI requests (2,454 more than in 2018–19) is the direct result of a substantial increase in FOI requests made to Services Australia (2,672 more requests than in 2018–19).³ Services Australia states that during the second half of 2019–20 they

experienced a surge in FOI requests from ‘a specific cohort of applicants who were seeking access to very similar document types’.

A number of agencies have attributed increases in the number of FOI requests they received in 2019–20 to the effect of machinery of government changes which changed or increased their roles and functions.

The increase in FOI requests was not uniform across all agencies and some agencies experienced significant declines in the number of FOI requests.

Number of FOI requests received by an agency or minister

In 2019–20, the Department of Home Affairs, Services Australia and the Department of Veterans’ Affairs together continued to receive the majority of FOI requests received by Australian Government agencies (70% of the total). Nearly all of these requests (95%) are from individuals seeking access to personal information.

The 20 agencies that received the largest number of requests in 2019–20 are shown in Table E.2 (page 141), with a comparison to the number of requests received by those agencies in 2018–19.

The agencies that experienced large increases in FOI requests in 2019–20 compared with 2018–19 include

³ Two agencies (the Digital Transformation Agency and the National Archives of Australia) attributed increases in the number of FOI requests received during 2019–20 to the impact of the COVID-19 pandemic. However, 3 agencies (AUSTRAC, Defence Housing Australia and the Independent Parliamentary Expenses Authority) experienced declines in requests and also attributed this to the pandemic.

the Department of the Prime Minister and Cabinet (+99%), the Department of Agriculture, Water and the Environment⁴ (+90%), the National Disability Insurance Agency (+82%), Services Australia (+43%), the Department of Defence (+40%), the Department of Health (+40%) and the Department of the Treasury (+29%).

As noted above, some agencies have attributed the increase in FOI requests to the impact of the COVID-19 pandemic. However, this is not the case for all agencies experiencing increases in request numbers in 2019–20. The Department of Defence said its increase in FOI requests was the result of the ADF’s involvement in the responses to the bushfire and COVID-19 emergencies; the National Disability Insurance Agency said the number of requests received has grown since the agency was established in 2013, in line with the number of participants receiving support through the National Disability Insurance Scheme; Services Australia said that during the second half of 2019–20 they experienced an increase in the number of FOI requests unrelated to COVID-19.

However, other agencies experienced significant decreases in FOI requests in 2019–20 (compared with 2018–19). For example, Comcare received 46% fewer FOI requests in 2019–20 when compared with 2018–19, which Comcare attributes to an individual who made a large number of FOI requests in 2018–19 but who pursued other avenues for obtaining access in 2019–20. Other agencies to experience decreases included the Attorney-General’s Department (-32%), the Immigration Assessment Authority (-26%), the Australian Taxation Office (-25%), the Department of Education, Skills and Employment (-20%), the Department of Foreign Affairs and Trade (-18%) and the Department of Veterans’ Affairs (-17%).

4 The Department of Agriculture, Water and the Environment commenced operation on 1 February 2020, and combines the former Department of Agriculture with functions previously administered by the former Department of the Environment and Energy.

Requests for personal and ‘other’ documents

In 2019–20, 33,584 FOI requests (or 81% of all requests received) were for documents containing personal information. This is a lower proportion of personal information requests than in the previous 5 years: in 2018–19, 83% of all requests were for predominantly personal information; in 2017–18, 82% of all requests were for personal information; in 2016–17 it was 82%; in 2015–16, 87% and in 2014–15, 85%.

The decrease in the proportion of personal FOI requests may be the result of agencies increasingly making documents available to members of the public using online portals such as myGov.

In 2018–19, there were 7,749 FOI requests (or 19% of all requests) for ‘other’ (non-personal) information. This is a higher proportion than in 2018–19, when 17% of all requests were for other information. In 2017–18 the proportion was 18%, in 2016–17 it was 18%, in 2015–16 it was 13% and in 2014–15 it was 15%.

There was also considerable variance across government in the number and proportion of personal and other information FOI requests in 2019–20.

Although the Department of Home Affairs experienced a slight decrease in total FOI requests in 2019–20 (164 fewer or a 1% decrease), it received 7% fewer personal FOI requests and 111% more requests for access to other information. This increase in other (non-personal) requests occurred in the context of the Department of Home Affairs experiencing a 45% increase in these type of FOI requests in 2018–19.

While the Department of Veterans’ Affairs experienced a 17% decline in overall request numbers in 2019–20, there was a much greater decline (58%) in ‘other’ FOI requests compared with the previous year. The Australian Taxation Office, which experienced a 25% decrease in total FOI request numbers, experienced a more pronounced decline in requests for access to ‘other’ information (-43%).

Table E.2: Agencies by number of FOI requests received

2018–19											2019–20			
Agency	Rank	Personal	Other	Total	% of all FOI requests	Rank	Personal	Other	Total	% of all FOI requests	Change in total			
Department of Home Affairs	1	16,828	897	17,725	46	1	15,666	1,895	17,561	42	−164			
Services Australia†	2	5,955	255	6,210	16	2	8,570	312	8,882	21	2,672			
Department of Veterans' Affairs	3	2,801	142	2,943	8	3	2,393	60	2,453	6	−490			
Administrative Appeals Tribunal	4	1,519	10	1,529	4	4	1,550	14	1,564	4	35			
National Disability Insurance Agency	6	782	54	836	2	5	1,439	81	1,520	4	684			
Australian Taxation Office	5	1,010	281	1,291	3	6	805	160	965	2	−326			
Australian Federal Police	7	588	138	726	2	7	648	179	827	2	101			
Department of Defence	10	166	275	441	1	8	287	332	619	1	178			
Department of Health	11	62	372	434	1	9	71	486	557	1	123			
Australian Transaction Reports and Analysis Centre	9	264	245	509	1	10	232	238	470	1	−39			
Immigration Assessment Authority	8	512	0	512	1	11	378	3	381	1	−131			
Department of the Prime Minister and Cabinet	19	1	169	170	1	12	8	331	339	1	169			
Australian Securities and Investments Commission	14	122	174	296	1	13	73	189	262	1	−34			

Agency	2018–19				% of all FOI requests	2019–20				Total	% of all FOI requests	Change in total
	Rank	Personal	Other	Total		Rank	Personal	Other	Total			
Office of the Australian Information Commissioner	15	150	94	244	1	14	142	90	232	1	–12	
Attorney-General's Department	13	215	121	336	1	15	57	173	230	1	–106	
Department of Agriculture, Water and the Environment*†	–	N/A	N/A	N/A	–	16	6	216	222	1	N/A	
Department of the Treasury*	–	3	150	153	1	17	5	192	197	1	44	
Department of Foreign Affairs and Trade	16	90	147	237	1	18	69	126	195	1	–42	
Comcare	12	181	179	360	1	19	123	71	194	1	–166	
Department of Education, Skills and Employment†	17	95	140	235	1	20	80	108	188	1	–47	
Total top 20	–	31,457†	3,968†	35,425†	93	–	32,602	5256	37,858	94	2,433	
Remaining agencies	–	983	2,471	3,454	9	–	982	2,493	3,475	8	21	
Total	–	32,440	6,439	38,879	102	–	33,584	7,749	41,333	102	–	

Note

Figures may not add to 100 due to rounding.

^{*} Denotes an agency not in the top 20 agencies in 2018–19.

[†] Denotes an agency whose name or functions changed as a result of AAOs issued on 8 August 2019 and 5 December 2019. For example, the Department of Agriculture, Water and the Environment combines the former Department of Agriculture with the former Department of the Environment and Energy; the Department of Education, Skills and Employment combines the former Department of Education with parts of the former Department of Employment, Skills, Small and Family Business.

[‡] Shows the total for the top 20 agencies in 2018–19 (that is, includes figures for 2 agencies not in the top 20 agency list in 2019–20).

FOI requests finalised

Agencies and ministers commenced 2019–20 with significantly more FOI requests on hand requiring a decision than the previous financial year (42% more than at the beginning of 2018–19).

In 2019–20 we saw:

- a large increase in the number of FOI requests withdrawn by applicants (41% more than in 2018–19, and in that year 39% more requests were withdrawn than in 2017–18)
- an increase in FOI requests received (6% more)
- a slight reduction in the number of requests decided (3% fewer than in 2018–19)
- 26% more requests on hand at the end of the year (5,941) than at the beginning of the financial year (4,713).

Reasons for the higher number of requests being withdrawn during this reporting period may include:

- increased referral to, or use of, administrative access to provide access to documents outside the FOI Act
- documents already being available on agency disclosure logs or published on agency IPS entries or in annual reports
- applicants accepting verbal assurances that no documents exist within the scope of their request
- the increased use of the practical refusal provisions in s 24 of the FOI Act in 2019–20 (if an applicant does not respond to a practical refusal notice issued under s 24AB of the FOI Act they are deemed to have withdrawn their FOI request – see s 24AB(7))
- requests sent to the wrong agency in the first instance which are then withdrawn and sent to the correct agency.⁵

⁵ Although an agency or minister can transfer a wrongly directed FOI request under s 16(1) of the FOI Act, this can only be done with the agreement of the receiving agency. If the applicant makes the request directly to the agency, it must be processed.

Following the 2 AAOs issued by the Governor-General in 2019–20, the number of FOI requests transferred from one agency or minister to another in 2019–20 was 17% higher than in 2018–19, with 747 transferred in 2019–20 compared with 639 in 2018–19.

Table E.3: Overview of FOI requests received and finalised

FOI request processing	2018–19	2019–20	% change
On hand at beginning of year	3,308	4,713 [§]	42
Received during the year	38,879	41,333	6
Requiring decision*	42,187	46,046	9
Withdrawn	7,087	10,000	41
Transferred	639	747	17
Decided†	30,144	29,358	–3
Finalised‡	37,870	40,105	6
On hand at end of year	4,317	5,941	38

* Total of FOI requests on hand at the beginning of this reporting period and requests received during this reporting period.

† Covers access granted in full, part or refused.

‡ The sum of requests withdrawn, transferred and decided.

§ Agencies can ask the OAIC to change the number of FOI requests on hand at the beginning of a reporting year if the number carried over from the previous year is incorrect.

The percentage of FOI requests granted in full decreased from 52% in 2018–19, to 47% in 2019–20. The percentage granted in full in 2017–18 was 50% and in 2016–17 it was 55%.

The percentage of FOI requests granted in part increased from 35% in 2018–19, to 38% in 2019–20. The number of FOI requests refused in 2019–20 (including requests refused because the documents sought do not exist or could not be found, or a practical refusal reason exists, as well as when exemptions have been applied) increased from 13% in 2018–19 to 15% in 2019–20.

As noted above, there was an increase in the number of 'other' (non-personal) FOI requests made to Australian Government agencies in 2019–20. Requests for 'other' information are

generally more complex than requests for access to personal information and more likely to be subject to a wider range of exemptions under the FOI Act.

Table E.4: Outcomes of FOI requests decided

Decision	Personal 2018–19	Other 2018–19	Total 2018–19	%	Personal 2019–20	Other 2019–20	Total 2019–20	%
Granted in full*	14,577	1,046	15,623	52	12,296	1,431	13,727	47
Granted in part†	8,835	1,706	10,541	35	9,350	1,871	11,221	38
Refused	2,147	1,833	3,980	13	2,136	2,274	4,410	15
Total	25,559	4,585	30,144	100	23,782	5,576	29,358	100

* The release of all documents within the scope of the request, as interpreted by the agency or minister.

† A document is granted in part when a part, or parts, of a document have been redacted to remove any irrelevant, exempt or conditionally exempt matter.

Table E.5 (page 145) lists the top 20 agencies by the number of FOI decisions made.

There are differences in the outcome of FOI requests between those agencies processing the largest number of requests in 2019–20 and the remaining Australian Government agencies. The refusal rate for the top 20 agencies is, on average, 13%. For the remaining Australian Government agencies, the refusal rate is much higher, 35%. However, 13 of the top 20 agencies refused access to documents at levels higher than the average across all Australian Government agencies (15%). These agencies process proportionally higher numbers of 'other' information FOI requests.

Correspondingly, the percentage of FOI requests granted in full is much higher for the agencies

in the top 20 (49%) than it is for the remaining agencies (20%). However, the top 5 agencies in terms of FOI requests received (Table E.2 on page 141), which account for 77% of all FOI requests received by the Australian Government, receive predominantly personal FOI requests, which are more likely to be granted in full than 'other' FOI requests (see Table E.4).

Agencies processing higher proportions of FOI requests for personal information generally have higher rates of FOI requests granted in full than the Australian Government average (47% in 2019–20). For example, the Department of Home Affairs, the Department of Veterans' Affairs, the Administrative Appeals Tribunal and the Immigration Assessment Authority.

Table E.5: Top 20 agencies by numbers of FOI requests decided in 2019–20

Agency	Granted in full	%	Granted in part	%	Refused	%	Total
Department of Home Affairs	8,193	55	5,145	35	1,438	10	14,776
Services Australia	928	29	1,783	56	468	15	3,179
Department of Veterans' Affairs	1,977	97	43	2	24	1	2,044
National Disability Insurance Agency	538	39	764	55	80	6	1,382
Administrative Appeals Tribunal	774	67	347	30	32	3	1,153
Australian Federal Police	33	4	531	69	206	27	770
Australian Taxation Office	115	18	365	56	168	26	648
Australian Transaction Reports and Analysis Centre	43	9	281	59	153	32	477
Department of Defence	86	19	226	50	141	31	453
Immigration Assessment Authority	260	84	38	12	11	4	309
Department of Health	84	33	76	30	96	37	256
Department of the Prime Minister and Cabinet	32	14	52	23	146	63	230
Australian Securities and Investments Commission	26	14	71	37	93	49	190
Attorney-General's Department	19	10	84	44	86	46	189
Australian Postal Corporation	17	12	14	9	117	79	148
Comcare	39	27	38	26	69	47	146
Department of Agriculture, Water and the Environment	8	6	91	67	37	27	136
Department of Foreign Affairs and Trade	10	7	55	41	71	52	136
Department of Infrastructure, Transport, Regional Development and Communications	25	22	55	50	31	28	111
Department of the Treasury	18	16	39	36	53	48	110
Top 20	13,225	49	10,098	38	3,520	13	26,843
Remaining agencies	502	20	1,123	45	890	35	2,515
Total	13,727	47	11,221	38	4,410	15	29,358

Use of exemptions

Table E.6 (page 147) shows how Australian Government agencies and ministers claimed exemptions under the FOI Act when processing FOI requests in 2019–20. More than one exemption may be applied in processing an FOI request.

Exemptions were not claimed or were not relevant in relation to 18,823 FOI requests decided in 2019–20 (64% of all FOI requests decided).⁶

Overall, there was very little change in the application of exemptions in 2019–20 when compared with previous years.

The personal privacy exemption (s 47F) remains the most claimed exemption. It was applied in 38% of all FOI requests in which an exemption was claimed in 2019–20, the same percentage as 2018–19. However, the use of s 47F has declined over the past 2 years. It comprised 43% of the exemptions applied in 2017–18 and 48% in 2016–17.

The next most claimed exemptions were s 47E (certain operations of agencies: 20%, down slightly from 21% in 2018–19), s 37 (documents affecting enforcement of law and protection of public safety: 10% which was the same as 2018–19 and slightly up on 2017–18 when it was 9%), s 47C (deliberative processes: 8%, an increase over 2018–19 (7%) and 2017–18 (5%)), s 38 (documents to which secrecy provisions apply: 7%, the same as 2018–19 and 2016–17) and s 33 (documents affecting national security, defence or international relations: 4%, slightly down on 2018–19 when it was 5%).

⁶ In 2018–19, the OAIC reported that exemptions were not claimed or were not relevant in relation to 6,718 FOI requests (22% of all FOI requests decided). The difference between 2018–19 and 2019–20 is the result of the Department of Home Affairs not providing information about the number of FOI requests decided in which exemptions were not claimed or were not relevant in 2018–19. The Department reported deciding 10,696 FOI requests in which exemptions were not claimed or were not relevant in 2019–20.

Use of practical refusal

Section 24AB of the FOI Act sets out that a ‘request consultation process’ must be undertaken if a ‘practical refusal reason’ exists (s 24AA). A practical refusal reason exists if the work involved in processing the FOI request would substantially and unreasonably divert the agency’s resources from its other operations, or if the FOI request does not adequately identify the documents sought.

The request consultation process involves the agency sending a written notice to the FOI applicant advising them that the agency intends to refuse the request and providing details of how the FOI applicant can consult the agency. The FOI Act imposes an obligation on the agency to take reasonable steps to help the FOI applicant revise their request so that the practical refusal reason no longer exists.

Table E.7 (page 147) provides information about how Australian Government agencies and ministers engaged in request consultation processes under s 24AB of the FOI Act in 2019–20 and the outcome of those processes.

Agencies sent 71% more notices of an intention to refuse an FOI request for a practical refusal reason in 2019–20 than in 2018–19, when 2,225 notices were sent. The reason for this increase was a substantial increase in the number of practical refusal notices issued by the Department of Home Affairs (which issued 792 notices in 2018–19 and 2,713 in 2019–20). The Department of Home Affairs issued practical refusal notices for 15% of all the FOI requests it received during 2019–20 (the Department of Home Affairs received 17,561 FOI requests).

In 2019–20, 88% of the FOI requests subject to a notice of intention to refuse a request were subsequently refused or withdrawn. The proportion was 77% in 2018–19, 84% in 2017–18 (noting 2017–18 was an atypical year in which once agency refused a large number of related requests for a practical refusal reason) and 66% in 2016–17. This increase in subsequent refusals or withdrawals is the result of the Department of Home Affairs issuing a large number of notices and subsequently processing very few requests (discussed further below).

Table E.6: Use of exemptions in FOI decisions in 2019–20

FOI Act reference	Exemption	Personal	Other	Total	% of all exemptions applied
s 33	Documents affecting national security, defence or international relations	481	230	711	4
s 34	Cabinet documents	5	182	187	1
s 37	Documents affecting enforcement of law and protection of public safety	1,447	183	1,630	10
s 38	Documents to which secrecy provisions of enactments apply	974	88	1,062	6
s 42	Documents subject to legal professional privilege	215	175	390	2
s 45	Documents containing material obtained in confidence	34	182	216	1
s 45A	Parliamentary Budget Office documents	–	3	3	1
s 46	Documents disclosure of which would be contempt of Parliament or contempt of court	16	14	30	1
s 47	Documents disclosing trade secrets or commercially valuable information	27	170	197	1
s 47A	Electoral rolls and related documents	9	15	24	1
s 47B	Commonwealth-state relations	145	57	202	1
s 47C	Deliberative processes	846	513	1,359	8
s 47D	Financial or property interests of the Commonwealth	114	25	139	1
s 47E	Certain operations of agencies	2,589	751	3,340	20
s 47F	Personal privacy	5,256	937	6,193	38
s 47G	Business	207	391	598	4
s 47H	Research	6	4	10	1
s 47J	The economy	–	6	6	1

Note

Figures may not add to 100 due to rounding.

Table E.7: Use of practical refusal in 2019–20

Practical refusal processing step	Personal	Other	Total	%*
Notified in writing of intention to refuse request	3,002	801	3,803	–
Request was subsequently refused or withdrawn	2,840	522	3,362	88
Request was subsequently processed	162	279	441	12

* Percentage of the total number of notices advising of an intention to refuse a request for a practical refusal reason.

Lower proportions of FOI requests subsequently refused, or withdrawn after a practical refusal notice is issued, suggests agencies have been better at assisting applicants revise the scope of their requests so they can be processed. Therefore, given that 2017–18 was an atypical year, there was a significant deterioration in the effectiveness of agency consultations under s 24AB of the FOI Act in 2019–20 when compared with previous years.

The Department of Home Affairs, which issued 71% of all notices of an intention to refuse a request for a practical refusal reason in 2019–20 (2,713), subsequently processed only 6 FOI requests after issuing a notice of intention to refuse a request

for a practical refusal reason (less than 1%). For all other agencies, this percentage was 40%. The low rate of FOI requests subsequently processed by the Department of Home Affairs indicates that its consultation with applicants has not been effective in removing the practical refusal reason. This low rate of FOI requests being processed after the issuing of a consultation notice is particularly notable because the Department of Home Affairs issued notices predominantly in relation to requests for access to personal information (98%). For all other Australian Government agencies, notices of intention to refuse for a practical refusal reason were issued predominantly in relation to 'other' (non-personal) FOI requests (68%).

Time taken to respond to FOI requests

Agencies and ministers have 30 days within which to make a decision under the FOI Act. The FOI Act allows for the timeframe to be extended in certain circumstances.⁷

If a decision is not made in response to an FOI request within the statutory timeframe (including any extension period) then s 15AC of the FOI Act provides that a decision refusing access is deemed to have been made. Nonetheless, agencies have an obligation to continue to process a request that has been deemed to be refused.

In 2019–20, 79% of all FOI requests determined were processed within the applicable statutory time period: 80% of all personal information requests and 73% of all non-personal requests.

⁷ An agency may extend the period of time to make a decision by agreement with the applicant (s 15AA), or to undertake consultation with a third party (ss 15(6)–(8)). An agency can also apply to the Information Commissioner for more time to process a request when the request is complex or voluminous (s 15AB), or when access has been deemed to have been refused (ss 15AC and 51DA) or deemed to have been affirmed on internal review (s 54D). These extension provisions acknowledge there are circumstances when it is appropriate for an agency to take more than 30 days to process a request. When an agency has obtained an extension of time to deal with an FOI request and finalises the request within the extended time, the request is recorded as having been determined within the statutory time period.

This represents a decrease in the timeliness of decision-making from 2018–19, when 83% of all FOI requests were decided within time and 2017–18, when 85% were decided within time.

The COVID-19 pandemic affected the ability of some Australian Government agencies to respond to FOI requests within the statutory timeframes in the FOI Act. In some agencies, FOI staff were redeployed to work in frontline customer service roles while the internal redeployment of other staff to meet service delivery needs made it difficult to obtain documents to satisfy FOI requests and to engage with decision makers, many of whom assumed additional responsibilities as part of their agency's response to the pandemic. Interagency consultation also presented challenges, particularly with agencies heavily involved in delivering Australia's response to the pandemic. For agencies with staff working remotely, some aspects of FOI processing was more difficult, for example, manipulating large files and using redaction software can be slower on domestic internet servers and in some cases the necessary IT infrastructure was not in place to allow staff to work from home, resulting in delays that affected productivity. Posting and receiving hard copy documents, particularly for staff living in locations subject to movement restrictions, was difficult. For some agencies, the impact of COVID-19 was more significant because they were in the early stages of integrating functions following machinery of government changes that came into effect on 1 February 2020.

Some agencies decided fewer than 50% of FOI requests within the statutory timeframes in 2019–20. These agencies include the Minister for the Environment, the Australian Radiation Protection and Nuclear Safety Agency, the Australian Sports Anti-Doping Authority, the Australian Sports Commission, the Australian Federal Police, the Australian Broadcasting Corporation, the Minister for Infrastructure, Transport and Regional Development, the Prime Minister and the Norfolk Island Regional Council.

Because of the large number of FOI requests the Department of Home Affairs receives, it is worth noting that the its compliance with statutory

timeframes was 66% in 2019–20, which is below the Australian Government average of 79%. This represents a decline in timeliness compared with 2018–19 (when it was 74%) and 2017–18 (75%). The Department of Home Affairs decided 69% of personal FOI requests within the statutory timeframes in 2019–20 but decided only 37% of ‘other’ (non-personal) requests within time.

There was a significant increase in the number of FOI requests decided more than 90 days over the applicable statutory time period when compared with previous years. While 10% of all requests decided in 2019–20 were decided more than 90 days

after the expiry of the statutory processing period, it was 2% in 2018–19 and 7% in 2017–18.

A number of agencies that process large numbers of FOI requests (more than 50) decided them all within the statutory time period in 2019–20. These agencies include the Department of Health (256 requests decided in 2019–20), IP Australia (109), the former Department of Employment, Skills, Small and Family Business (104), the Office of the Australian Information Commissioner (101), the Department of Education, Skills and Employment (82), the Department of Social Services (63) and the Department of Finance (59).

Table E.8: Response times greater than 90 days after the expiry of the applicable statutory period in 2019–20

Agency	Total requests decided	Requests decided more than 90 days after statutory period	% FOI requests received by agency or minister
Australian Fisheries Management Authority	2	1	50
Office of the Registrar of Indigenous Corporations	67	29	43
Australian Institute of Aboriginal and Torres Strait Island Studies	3	1	33
Treasurer	3	1	33
Department of Home Affairs	14,776	2,827	19
Australian Sports Anti-Doping Authority	21	4	19
Clean Energy Regulator	17	3	18
Australian Broadcasting Corporation	52	9	17
Veterans’ Review Board	6	1	17
Administrative Appeals Tribunal	1,153	2	1
Department of Veterans’ Affairs	2,044	3	1
Australian Electoral Commission	24	1	4
Department of Foreign Affairs and Trade	136	4	3
Department of Industry, Science, Energy and Resources	80	2	2
Australian Federal Police	770	17	2
Australian Maritime Safety Authority	48	1	2
Australian Criminal Intelligence Commission	67	1	1
Australian Transaction Reports and Analysis Centre	477	3	1
Department of the Prime Minister and Cabinet	230	1	1
Australian Taxation Office	648	4	1
Services Australia	3,179	3	1
National Disability Insurance Agency	1,382	1	1

Applications for amendment of personal records

Section 48 of the FOI Act confers a right on a person to apply to an agency or to a minister to amend a document to which lawful access has been granted, when the document contains personal information about the applicant:

- that is incomplete, incorrect, out of date or misleading and
- that has been used, is being used, or is available for use by the agency or minister for an administrative purpose.

In 2019–20, 7 agencies received 717 amendment applications (no applications were received by ministers). This is a 7% increase in applications from 2018–19, when 673 applications were received. However, in 2018–19 there was a 32% increase in applications compared with the previous year

(510 amendment applications were made in 2017–18).

The increase in amendment applications is largely due to an increase in applications received by the Department of Home Affairs (6% more in 2019–20 than in 2018–19). Increases in amendment applications were also experienced by the Department of Defence (an 87% increase, from 15 to 28 applications) and Services Australia (a 71% increase, from 17 to 29 applications).

Table E.9 compares the decision-making for amendment applications with 2018–19. In 2019–20, a decision was made to amend or annotate a person's personal record in 88% of all decided applications, an increase in the proportion of decisions made to amend or annotate in 2018–19, when 76% of all applications were granted. Because the Department of Home Affairs accounted for 91% of all amendment applications received, overall trends in amendment decision-making were largely determined by decisions made by that Department.

Table E.9: Decisions on amendment applications

Decision	2018–19	% of total	2019–20	% of total	% change*
Applications granted: amend record	407	63	515	78	27
Applications granted: annotate record	80	13	68	10	–15
Applications granted: amend and annotate record	–	–	–	–	–
Applications refused	155	24	79	12	–31
Total decided	642	100	662	100	–

* Percentage increase or decrease over 2018–19.

Time taken to respond to amendment applications

An agency is required to notify an applicant of a decision on their application to amend personal records as soon as practicable, but in any case, not later than 30 days after the day the request is received, or a longer period as extended under the FOI Act.

In 2019–20, 90% of all amendment applications were decided within the applicable statutory time frame, the same as in 2018–19.

Internal review of amendment decisions

In 2019–20, 7 applications for internal review of amendment decisions were made: 4 applications were made to the Department of Home Affairs;

2 to the former Department of Employment, Skills, Small and Family Business; and one to the Department of Defence. Six internal review decisions were made during the reporting year; 5 decisions granted the requested amendment or annotation and one decision was made refusing the requested alteration.

Charges

Section 29 of the FOI Act provides that an agency or minister may impose charges in respect

of FOI requests, except requests for personal information, and sets out the process by which charges are assessed, notified and adjusted.

Table E.10 shows the amounts collected by the 20 agencies that collected the most in charges under the FOI Act in 2019–20. These top 20 agencies are responsible for 90% of all charges collected by Australian Government agencies and ministers under the FOI Act.

Table E.10: Top 20 agencies by charges collected in 2019–20

Agency	Requests received	Requests where charges notified	Total charges notified (\$)	Total charges collected (\$)
Department of Health	557	149	40,696	19,075
Civil Aviation Safety Authority	145	40	13,333	8,929
Department of Education, Skills and Employment	188	55	15,379	6,990
Department of Industry, Science, Energy and Resources	128	2	12,211	5,064
Department of Defence	619	19	19,895	4,741
Australian Competition and Consumer Commission	62	28	11,172	4,431
Australian Maritime Safety Authority	65	7	5,772	4,168
Department of Agriculture, Water and the Environment	222	32	5,836	3,738
Department of Agriculture	78	27	3,663	3,452
Bureau of Meteorology	22	8	4,637	3,156
Commonwealth Scientific and Industrial Research Organisation (CSIRO)	42	3	3,182	2,820
National Health and Medical Research Council	20	8	5,378	2,605
National Indigenous Australians Agency	56	6	4,809	2,406
Great Barrier Reef Marine Park Authority	7	7	10,050	2,207
Services Australia	8,882	66	10,008	1,782
Department of the Prime Minister and Cabinet	339	21	5,566	974
Department of Employment, Skills, Small and Family Business	138	24	6,921	798
Airservices Australia	32	15	9,099	796
Comcare	194	2	1,207	747
Australian Pesticides and Veterinary Medicines Authority	20	2	1,679	686
Top 20	11,816	521	190,493	79,565
Remaining agencies	29,517	195	76,576	8,525
Total	41,333	716	267,069	88,090

In 2019–20, agencies notified a total of \$267,069 in charges with respect to 716 FOI requests, but collected only \$88,090 (33% of the total notified). This difference is due to agencies exercising their discretion under s 29 of the FOI Act not to impose the whole charge, or applicants withdrawing their FOI request and not paying the notified charge.

Agencies notified and collected less in charges in 2019–20 than in 2018–19. As noted above, in 2019–20, agencies notified a total of \$267,069 in charges, 25% less than in 2018–19, when \$357,039 was notified. In 2019–20, \$88,090 was collected, a 28% decrease compared to 2018–19 when \$122,774 was collected. Total charges notified and total charges collected have declined year-on-year since 2013–14, when \$734,762 was notified and \$239,628 was collected.

Disclosure logs

All Australian Government agencies and ministers subject to the FOI Act are required to maintain an FOI disclosure log on a website. The disclosure log lists information that has been released to FOI applicants, subject to some exceptions (such as personal or business information). Information about agency and ministerial compliance with disclosure log requirements has been collected since 2012–13.

Australian Government agencies reported 1,949 new entries on disclosure logs during 2019–20 including documents available for download directly from the agency or minister’s website in relation to 1,468 requests, documents available from another website in relation to 56 requests, and 425 entries in which the documents are available by another means (usually upon request).

The total number of new entries published on disclosure logs in 2019–20 was 62% higher than 2018–19, when 1,200 new entries were added.

There has been an increase in the proportion of new documents which members of the public can access directly from agency websites (in 2019–20 it was 75% compared to 59% in 2018–19).

As explained in our FOI Guidelines, publication of documents directly through the disclosure log, rather than providing a description of the documents and how they can be obtained on request from the agency or minister, is consistent with the FOI Act object of facilitating public access to government information.⁸

In 2019–20, agencies and ministers reported a total of 40,776 unique visits to disclosure logs and 165,169 page views, which represents an 81% decrease in unique visits since 2018–19 and a 23% decrease in total page views reported in 2018–19. It is not clear whether this decrease is the result of reduced reporting (the online form completed by agencies defaults to a response that website statistics are not collected, however this has been a feature of the reporting form for a number of years), or whether there was a decrease in both unique visitors and page views.

Review of FOI decisions

Under the FOI Act, an applicant who is dissatisfied with the decision of an agency or minister on their initial FOI request has a number of avenues of review. The applicant can seek internal review with the agency or minister or external merits review by the Information Commissioner (IC review). Information Commissioner decisions under s 55K are reviewable by the AAT. AAT decisions may be appealed on a question of law to the Federal Court. In addition, an applicant can complain at any time to the Information Commissioner about an agency’s actions under the FOI Act.

Third parties who have been consulted in the FOI process also have review rights if an agency or minister decides to release documents contrary to their submissions. Consultation requirements apply for state governments (s 26A), commercial organisations (s 27), and private individuals (s 27A).

⁸ FOI Guidelines [14.32].

Internal review

Although there is no statutory obligation to do so, the Information Commissioner recommends and encourages FOI applicants to apply for an internal review before applying for an IC review.

In 2019–20, 942 applications were made for an internal review of FOI decisions, 5% more than in 2018–19 (when 893 internal review applications were made). This increase is noteworthy in the context of fewer FOI requests being decided in 2019–20. In 2019–20, 3% of all FOI requests determined led to applications for internal review, the same as in 2018–19. This indicates that applicants were more likely than in previous years to seek internal review with the agency, rather than proceeding directly to external review by the Information Commissioner.

Of the 942 applications for an internal review, 572 (61%) were for review of decisions made in response to requests for personal information and 370 (39%) were for review of decisions on other (non-personal) information requests. On the basis that 81% of all FOI decisions determined in 2019–20 were made with respect to requests for access to personal information, this indicates that FOI applicants seeking access to personal information are less likely to seek internal review than those seeking to access other (non-personal) information.

Agencies finalised 890 decisions on internal review in 2019–20. This was 7% more than in 2018–19 (829). Of these, 442 (49%) affirmed the original decision, 138 (15%) set aside the original decision and granted access in full, 235 (26%) granted access in part, 13 (1%) granted access in another form, 14 (2%) resulted in lesser access and applicants withdrew 43 applications (5%) without concession by the agency. Agencies reduced the

charges levied as a result of internal review in 4 cases (1%).

As noted above, there were 7 applications for internal review of decisions made with respect to amendment applications, 1 fewer than in 2018–19. Agencies made 6 internal review decisions on amendment applications compared to 10 in 2018–19. In 1 review, the original decision was affirmed and in the remaining 5, the original decision was set aside and the requested alteration or annotation was made. In 2018–19, 8 of original decisions were affirmed and 2 were set aside.

IC review applications

Table E.11 provides a breakdown by agency and minister of the IC review applications received in 2019–20, where the agency or minister was the subject of more than one IC review. In total, there were 1,066 applications for IC review (up 15% from 928 in 2018–19).

In general, the agencies that receive the most FOI requests also have the most IC review applications. In 2019–20, of the agencies experiencing the most IC reviews, 13 also appear in the list of top 20 agencies in terms of the number of FOI requests received.

However, some agencies that do not receive large numbers of FOI requests are the subject of a comparatively large number of IC review applications given their FOI caseload. In 2019–20, the agencies with a large number of IC reviews lodged, expressed as a proportion of the total number of FOI requests received, include the Prime Minister (22%), the Department of Foreign Affairs and Trade (17%), Comcare (15%), the National Indigenous Australians Agency (14%) and the Australian National University (10%).

Table E.11: Information Commissioner review – top 20 by review applications received

Agency/minister	FOI requests received	Access refusal decisions	Access grant decisions	Total IC reviews	% of FOI requests
Department of Home Affairs	17,561	283	–	283	2
Services Australia	8,882	153	–	153	2
Australian Federal Police	827	58	–	58	7
Department of Defence	619	40	1	41	7
Department of Foreign Affairs and Trade	195	33	–	33	17
Comcare	194	29	–	29	15
National Disability Insurance Agency	1,520	27	–	27	2
Australian Taxation Office	965	26	–	26	3
Prime Minister of Australia	101	22	–	22	22
Department of Health	557	21	–	21	4
Department of the Prime Minister and Cabinet	339	21	–	21	6
Attorney-General's Department	230	21	–	21	9
Australian Securities and Investments Commission	262	15	1	16	6
Department of the Environment and Energy*	N/A	11	4	15	N/A
Department of Agriculture, Water and the Environment†	222	8	2	10	5
Commonwealth Ombudsman	120	9	–	9	8
Department of Infrastructure, Transport, Cities and Regional Development	160	9	–	9	6
Department of Industry, Transport, Cities and Regional Development	128	9	–	9	7
National Indigenous Australians Agency	56	8	–	8	14
Department of Social Services	138	8	–	8	6
Civil Aviation Safety Authority	145	5	3	8	6
Australian National University	79	8	–	8	10
Sub-total	33,300	824	11	835	3
Remaining agencies/ministers	8,033	217	14	231	3
Total	41,333	1041	25	1,066	3

* New department, commenced operations 1 February 2020.

There was a 26% increase in the number of IC reviews finalised by the OAIC in 2019–20 (829), compared with 2018–19 (when 659 were finalised).

In 2019–20, 777 IC reviews were finalised without a formal decision being made under s 55K of the FOI Act (94% of all IC reviews finalised during this reporting period). This is a higher percentage than in 2018–19 (91%) and 2017–18 (80%).

In 2019–20, 82 IC reviews were declined under s 54W(a) (lacking in substance, failure to cooperate, or lost contact) compared to 39 in 2018–19. There were 83 IC reviews declined under s 54W(b) (refer to AAT) compared with 31 in 2018–19. The total number of IC review applications declined under s 54W⁹ of the FOI Act increased as a percentage of the total IC reviews finalised in 2019–20. In 2019–20, 255 IC reviews were declined under s 54W (31%). This is a higher percentage than in both 2018–19 (30%) and 2017–18 (27%).

Of the 829 IC review applications finalised, 11% were declined under s 54W(a)(i) (frivolous, vexatious, misconceived, lacking in substance, or not made in good faith), 9% were declined under s 54W(a)(ii) (failure to cooperate), 1% under s 54W(a)(iii) (lost contact) and 10% under s 54W(b) (allow to go direct to the AAT).

In 2019–20, the Information Commissioner made 50 decisions under s 55K of the FOI Act. Of the 50 decisions, 24 affirmed the decision under review (48%), 19 set aside the reviewable decision (38%) and 7 decisions were varied (14%). Of the 24 decisions that affirmed the decision under review, 19 (79%) decisions were made with respect to access refusal decisions and 5 (21%) were made in relation to access grants. Each of the 19 decisions that set aside the reviewable decision, and the 7 decisions that varied the reviewable decision were access refusals. In 2018–19, the Information Commissioner affirmed 32% of decisions, set aside 62% and varied 7%.

Of the 24 decisions affirmed by the Information Commissioner, 8 decisions (33%) had been revised by the agency or minister under s 55G of the FOI Act during the IC review, giving greater access to the documents sought. Of the 19 decisions set aside by the Information Commissioner, 9 decisions (47%) had been revised by the agency or minister under s 55G of the FOI Act during the IC review, giving greater access to the documents sought.

The percentage of applications received by the OAIC which were out of jurisdiction or invalid increased from 16% in 2018–19, to 19% in 2019–20.

⁹ Section 54W of the FOI Act contains a number of grounds under which the Information Commissioner may decide not to undertake an IC review or not to continue to undertake an IC review.

Table E.12: Information Commissioner review outcomes

Information Commissioner decisions	2018–19	% of 2018–19 total	2019–20	% of 2019–20 total
Section 54N — out of jurisdiction or invalid	103	16	161	19
Section 54R — withdrawn	199	30	180	22
Section 54R — withdrawn/conciliated	76	13	154	19
Section 54W(a)(i) — frivolous, vexatious, misconceived, lacking in substance, or not in good faith	126	19	90	11
Section 54W(a)(ii) — failure to cooperate	34	5	76	9
Section 54W(a)(iii) — lost contact	5	1	6	1
Section 54W(b) — refer to AAT	31	5	83	10
Section 54W(c) — failure to comply	–	–	–	–
Section 55F — set aside by agreement	13	2	12	1
Section 55F — varied by agreement	12	2	17	2
Section 55F — affirmed by agreement	–	–	–	–
Section 55G — substituted	–	–	–	–
Section 55K — affirmed by Information Commissioner	19	3	24	3
Section 55K — set aside by Information Commissioner	37	6	19	2
Section 55K — varied by Information Commissioner	4	1	7	1
Total	659	103	829	100

Note

Figures may not add to 100 due to rounding.

Administrative Appeals Tribunal review

An application can be made to the AAT for review of the following FOI decisions:

- a decision of the Information Commissioner under s 55K
- an IC reviewable decision (that is, an original decision or an internal review decision), but only if the Information Commissioner decides, under s 54W(b), that the interests of the

administration of the FOI Act make it desirable that the IC reviewable decision be considered by the AAT directly.

In 2019–20, 52 applications for review of FOI decisions were made to the AAT. This is a 148% increase from 2018–19, when 21 applications were made to the AAT.

Table E.13 provides a breakdown, by agency, of applications to the AAT in relation to FOI decisions in 2019–20. This data has been provided by the AAT.

Table E.13: AAT review by agency (respondent)

Respondent	Applications
National Disability Insurance Agency	7
Department of Defence	4
Australian Securities & Investments Commission	3
Department of Home Affairs	3
Attorney-General's Department	2
Australian Transaction Reports and Analysis Centre	2
Australian Federal Police	2
Department of Foreign Affairs and Trade	2
Department of Industry, Science, Energy and Resources	2
Department of Veterans' Affairs	2
Office of the Australian Information Commissioner	2
Services Australia	2
Aged Care Quality and Safety Commissioner	1
Attorney-General	1
Australian Financial Security Authority	1
Australian Sports Anti-Doping Authority	1
Australian Taxation Office	1
Department of Finance	1
High Court of Australia	1
Indigenous Business Australia	1
Minister for Energy and Emissions Reduction	1
Office of the Commonwealth Director of Public Prosecutions	1
Professional Services Review	1
Sport Integrity Australia	1
Other (appeals by agencies against IC review decisions)	7
Total	52

In 2019–20, 2 agencies sought review in the AAT of decisions made by the Information Commissioner under s 55K of the FOI Act – Services Australia (6 applications) and the Department of Defence (1 application).

Fifty-seven applications remain outstanding with the AAT at the end of 2019–20. This is a 171% increase on the number of applications outstanding at the end of 2018–19 (21).

Table E.14 shows the outcome of the 30 FOI reviews finalised by the AAT in 2019–20. The AAT provided this data.

Table E.14: Outcomes of FOI reviews finalised by the AAT

AAT outcomes	Number in 2018–19	% of total 2018–19	Number in 2019–20	% of total 2019–20
Affirmed by consent	1	5	–	–
Varied/set aside/remitted by consent	4	20	2	7
Dismissed by consent	–	–	–	–
Withdrawn by applicant	4	20	4	13
Decision affirmed	6	30	9	30
Decision varied/set aside	1	5	3	10
Dismissed by AAT — frivolous or vexatious/ fail to comply with direction	–	–	2	7
Dismissed — no application fee paid	1	5	–	–
Dismissed — non-reviewable decision	3	15	10	33
Total	20	100	30	100

Of the 30 FOI reviews finalised by the AAT, 12 (40%) resulted in published decisions in 2019–20.

The AAT affirmed the agency's decision in 9 (30%) of the 30 AAT reviews finalised; the same percentage as in 2018–19.

Of the 30 FOI reviews finalised in 2019–20, 3 involved applications made by Australian Government agencies following decisions made by the Information Commissioner under s 55K of the FOI Act. Of these 3 reviews, 2 applications were varied or set aside (by decision), and 1 was varied or set aside by consent.

Federal Court

No judicial decisions relating to FOI matters were made during 2019–20.

Impact of FOI on agency resources

To assess the impact on agency resources of their compliance with the FOI Act, agencies are asked to estimate the hours staff spent on FOI matters and the non-labour costs directly attributable to FOI, such as legal and specific FOI training costs. Agencies submit these estimates annually. Agency estimates may also include FOI processing work undertaken on behalf of a minister's office.

Agencies are also asked to report their costs of compliance with the IPS. To facilitate comparison with information in previous annual reports, IPS costs are not included in this analysis of the cost of agency compliance with the FOI Act, but are discussed separately below.

The total reported cost attributable to processing FOI requests in 2019–20 was \$63.9 million, a 7% increase over the previous financial year's total of \$59.9 million.

The reason for the increase in the overall cost of FOI activity is a 6% increase in the total staff hours devoted to FOI in 2019–20 (when compared with

2018–19). The total number of staff hours spent in FOI activity in 2018–19 was 840,803 but that rose to 893,564 in 2019–20. As a result, the average cost of each FOI request determined during this reporting period rose to \$2,176 (from \$1,985 in 2018–19).

Table E.15 sets out the average cost per FOI request determined (granted in full, in part or refused) compared to the last 3 financial years. The average cost per request determined in 2019–20 was \$2,177 (up 10% from 2018–19).

Table E.15: Average cost per request determined

Year	Requests determined	Total cost (\$)	Average cost per request determined (\$)
2019–20	29,358	63,906,111	2,177
2018–19	30,144	59,844,953	1,985
2017–18	31,674	52,186,179	1,648
2016–17	34,029	44,787,154	1,316

Staff costs (FOI)

All agencies are asked to supply information about staff resources allocated to FOI.

Table E.16: Total FOI staffing across all Australian Government agencies

Staffing	2017–18	2018–19	2019–20	% change
Total staff hours	744,350	840,803	893,564	6
Total staff years	372.2	420.4	446.8	6

Agencies provide estimates of the number of staff hours spent on FOI to enable calculation of salary costs (and 60% related costs) directly attributable to FOI request processing.

Table E.17: Estimated staff costs of FOI compared to last year

Type of staff	Staff years 2018–19	Total staff costs 2018–19	Staff years 2019–20	Total staff costs 2019–20	Total staff costs (% change)
FOI contact officers	311.7	38,946,729	326.5	41,202,750	6
SES	13.8	4,324,454	16.5	5,353,577	24
APS Level 6 and EL 1–2	50.3	9,166,395	53.2	9,780,761	7
APS Levels 1–5	43.1	4,406,957	47.5	4,923,532	12
Minister and advisers	0.9	211,357	1.1	256,145	21
Minister's support staff	0.6	64,207	2.0	210,519	228
Total	420.4	57,120,102	446.8	61,727,284	8

A summary of staff costs is provided in Table E.17, based on information provided by agencies and ministers and is calculated using the following median base annual salaries from Australian Public Service Commission public information:¹⁰

- FOI contact officer (officers whose duties included FOI work) \$78,873¹¹
- other officers involved in processing requests:
 - Senior Executive Service (SES) officers (or equivalent) \$202,910¹²
 - Australian Public Service (APS) Level 6 and Executive Levels (EL) 1–2 \$115,005¹³
 - Australian Public Service (APS) Levels 1–5 \$64,799¹⁴
- Minister's office:
 - Minister and advisers \$142,556¹⁵
 - Minister's support staff \$64,799¹⁶

10 Because salary levels differ between agencies, median salary levels have been used. These will be published by the Australian Public Service Commission in its *APS Remuneration Report 2019*. These median levels are as at 31 December 2019.

11 APS Level 5 base salary median.

12 SES Band 1 base salary median.

13 Executive Level 1 base salary median.

14 APS Level 3 base salary median.

15 Executive Level 2 base salary median.

16 APS Level 3 base salary median.

Total estimated staff costs in 2019–20, were \$61.7 million, 8% more than in 2018–19. In 2018–19, total estimated staff costs rose by 15% over the previous financial year.

Non-labour costs

Non-labour costs directly attributable to FOI are summarised in Table E.18, including the percentage change from the previous year. The total non-labour costs in 2019–20 were \$2.2 million, a 20% decrease compared with the previous financial year (\$2.7 million).

The most significant decrease in non-labour costs in 2019–20 was in relation to training costs, which decreased by 56%. Training costs reflect training provided to new FOI staff, as well as ongoing training for existing staff. This decrease may be the result of the substantial increase in training costs in 2018–19 compared with the previous year (19% higher in 2018–19 than in 2017–18) which may mean that many staff undertook training during the last financial year. The ability of agencies to delivery FOI training may also have been impacted by the COVID-19 pandemic, which changed staff priorities and limited training opportunities.

There was also a large decrease in non-labour costs in 2019–20 in relation to general legal advice costs, which were 53% lower than in 2019–20.

As can be seen from Table E.18, there was also a small (5%) decrease in general administrative costs (this includes printing and postage). This may reflect a general decline in the number of people requiring documents to be printed and sent to them, increased efficiencies in the use of digital technology, and the greater use of digital communication due to movement restrictions imposed by the COVID-19 pandemic.

The largest increase in non-labour costs in 2019–20, was in relation to litigation costs (120% higher than in 2018–19). The higher litigation costs are primarily the result of the Department of Foreign Affairs and Trade (\$178,289 up from \$38,736 in 2018–19) and Services Australia (which reported no litigation expenses in 2018–19 and \$151,272 in 2019–20). Neither agency provided an explanation in their annual return as to how these costs were incurred or why these costs were higher than in 2018–19. However, it is apparent from the data provided by the AAT that Services Australia was a party to 8 new appeals relating to FOI decisions in 2019–20; 2 as the respondent and 6 as the applicant.

Average cost per FOI request

The overall average number of staff days to process an FOI request in 2019–20 was 2.9 days,

the same as 2018–19. As in previous years, the average staff days per FOI request differed significantly across agencies, from 0.1 days (Office of the Official Secretary to the Governor-General) to 41 days (Australian Transport Safety Bureau).

The average cost per request received also differed significantly across agencies from \$21 to \$28,721. The overall average cost per request received was \$1,546, an increase of less than 1% on the previous year's average of \$1,539.

As a general rule, the agencies with the highest average cost per request are small agencies which do not receive many FOI requests. As a result, they do not have the opportunity to develop the processing efficiencies of agencies with higher volumes of FOI requests.

However, the Department of Defence, which received 619 FOI requests, and the Department of Industry, Science, Energy and Resources, which received 128 FOI requests both have a high average cost per request. These costs are attributable in part to the high average staff days per request (28.4 days for the Department of Industry, Science, Energy and Resources and 17.8 days for the Department of Defence).

Table E.18: Identified non-labour costs of FOI

Costs	2017–18 (\$)	2018–19 (\$)	2019–20 (\$)	% change
General legal advice costs	1,234,631	1,517,125	719,718	–53
Litigation costs	426,145	414,635	911,551	120
Sub-total (legal costs)	1,660,776	1,931,760	1,631,269	–16
General administrative costs	274,532	144,140	136,634	–5
Training	323,958	385,745	168,339	–56
Other	299,029	263,206	242,585	–8
Total	2,558,295	2,724,851	2,178,827	–20

Table E.19: Agencies with average cost per FOI request greater than \$10,000

Agency	Requests received	Average cost per request (\$)
Professional Services Review	3	28,721
Australian National Maritime Museum	1	25,757
Australian Transport Safety Bureau	9	21,705
Department of Industry, Science, Energy and Resources	128	20,347
Australian Building and Construction Commission	1	17,407
Murray-Darling Basin Authority	3	13,829
Indigenous Business Australia	5	12,860
Cancer Australia	6	11,543
Director of National Parks	5	11,358
Fair Work Ombudsman	57	11,472
Department of Defence	619	11,287
Minister for Industry, Science and Technology	2	11,041
National Competition Council	2	10,047

Impact of the IPS on agency resources

Agencies are required to provide information about the costs of meeting their obligations under the IPS.

The total reported cost attributable to compliance with the IPS in 2019–20 was \$1,242,976, nearly 1% less than in 2018–19 (\$1,254,293).

Staff costs (IPS)

Table E.20 shows the total reported IPS staffing across Australian Government agencies compared to last year.

Table E.20: Total IPS staffing

Staffing	2018–19	2019–20	% change
Staff numbers: 75–100% time on IPS matters	31	8	–74
Staff numbers: less than 75% time on IPS matters	323	295	–9
Total staff hours	19,225	19,084	–1
Total staff years	9.6	9.5	–1

Table E.21: Estimated staff costs in relation to the IPS in 2019–20

Type of staff*	Staff years	Salary costs	Related costs (60%)	Total staff costs
IPS contact officers	8.8	442,547	663,820	1,106,367
SES	0.1	7,597	11,395	18,992
APS Level 6 and EL 1–2	0.5	38,163	57,245	95,408
APS Levels 1–5	0.2	8,211	12,317	20,528
Total	9.6	496,518	744,778	1,241,296

* IPS contact officers are officers whose usual duties include IPS work. The other rows cover other officers involved in IPS work.

Non-labour IPS costs

Reported IPS non-labour costs for all agencies totalled \$1,680 in 2019–20, a 68% decrease when compared with 2018–19. Agencies reported \$1,180 on general administrative costs and one agency reported spending \$500 on general legal advice associated with its IPS.

Only 5 agencies (of the more than 250 agencies subject to the requirement to maintain an IPS entry) reported any expenditure on IPS during 2019–20. No agencies reported expenditure on IPS litigation, IPS training or 'other' IPS expenses.

Appendix F: Acronyms and abbreviations

Acronym or abbreviation	Expanded term
AAO	Administrative Arrangements Orders
AAT	Administrative Appeals Tribunal
ACAPS	Australian Community Attitudes to Privacy Survey
ACCC	Australian Competition and Consumer Commission
ACT	Australian Capital Territory
AHRC	Australian Human Rights Commission
AIAC	Association of Information Access Commissioners
AIC Act	<i>Australian Information Commissioner Act 2010</i>
AICmr	Australian Information Commissioner
APP	Australian Privacy Principle
APPA	Asia Pacific Privacy Authorities
APS	Australian Public Service
ATO	Australian Taxation Office
AustLII	Australasian Legal Information Institute
CASA	Civil Aviation Safety Authority
CDR	Consumer Data Right
CIE	Connected information environment
CII	Commissioner-initiated investigations
Data-matching Act	<i>Data-matching Program (Assistance and Tax) Act 1990</i>
DBN	Data breach notification
DHS	Department of Human Services
DRS	Data retention scheme
EDRS	External dispute resolution scheme
EOT	Extension of time
EU	European Union

Acronym or abbreviation	Expanded term
FOI	Freedom of information
FOI Act	<i>Freedom of Information Act 1982</i>
FTE	Full-time equivalent
GPA	Global Privacy Assembly
GST	Goods and Services Tax
HSR	Health and Safety Representatives
IC	Information Commissioner
ICIC	International Conference of Information Commissioners
ICON	Information Contact Officers Network
Information Commissioner	Australian Information Commissioner, within the meaning of the <i>Australian Information Commissioner Act 2010</i>
IPS	Information Publication Scheme
KMP	Key management personnel
MOU	Memorandum of understanding
NDB	Notifiable Data Breach
NEIDM	Non-Employment Income Data Matching
NFBMC	National Facial Biometric Matching Capability
NSW	New South Wales
OAIC	Office of the Australian Information Commissioner
OECD	Organisation for Economic Co-operation and Development
PAA	Privacy Authorities Australia
PAW	Privacy Awareness Week
PAYG	Pay-As-You-Go
PGPA Act	<i>Public Governance, Performance and Accountability Act 2013</i>
PGPA Rule	<i>Public Governance, Performance and Accountability Rule 2014</i>
PIA	Privacy Impact Assessment
PNR	Passenger Name Record
PPN	Privacy Professionals Network
Privacy Act	<i>Privacy Act 1988</i>
SES	Senior Executive Service

Acronym or abbreviation	Expanded term
SME	Small and medium enterprises
TFN	Tax file number
TIYDL	This Is Your Digital Life
USI	Unique Student Identifiers
WHS	Work health and safety

Appendix G: Correction of material errors

There is one error to be corrected in the *Office of the Australian Information Commissioner Annual Report 2018–19*.

Page 46 – Performance measure 2.3.2
The sentence: ‘Only one FOI-related CII was opened in 2018–19 and the eight-month period had not elapsed by 30 June 2019.’ should read as follows: ‘No FOI-related CII were opened during 2018–19.’

Appendix H: List of requirements

PGPA Rule reference	Description	Requirement	Part of report
17AD(g)	Letter of transmittal		
17AI	A copy of the letter of transmittal signed and dated by accountable authority on date final text approved, with statement that the report has been prepared in accordance with section 46 of the Act and any enabling legislation that specifies additional requirements in relation to the annual report.	Mandatory	1
17AD(h)	Aids to access		
17AJ(a)	Table of contents.	Mandatory	2
17AJ(b)	Alphabetical index.	Mandatory	171
17AJ(c)	Glossary of abbreviations and acronyms.	Mandatory	162
17AJ(d)	List of requirements.	Mandatory	166
17AJ(e)	Details of contact officer.	Mandatory	Copyright page
17AJ(f)	Entity's website address.	Mandatory	Copyright page
17AJ(g)	Electronic address of report.	Mandatory	Copyright page
17AD(a)	Review by accountable authority		
17AD(a)	A review by the accountable authority of the entity.	Mandatory	8–10
17AD(b)	Overview of the entity		
17AE(1)(a)(i)	A description of the role and functions of the entity.	Mandatory	6
17AE(1)(a)(ii)	A description of the organisational structure of the entity.	Mandatory	16
17AE(1)(a)(iii)	A description of the outcomes and programmes administered by the entity.	Mandatory	21–76
17AE(1)(a)(iv)	A description of the purposes of the entity as included in corporate plan.	Mandatory	7
17AE(1)(aa)(i)	Name of the accountable authority or each member of the accountable authority.	Mandatory	16–18
17AE(1)(aa)(ii)	Position of the accountable authority or each member of the accountable authority.	Mandatory	16–18
17AE(1)(aa)(iii)	Period as the accountable authority or member of the accountable authority within the reporting period.	Mandatory	16–18
17AE(1)(b)	An outline of the structure of the portfolio of the entity.	Portfolio departments – mandatory	6, 16–18, 78
17AE(2)	Where the outcomes and programs administered by the entity differ from any Portfolio Budget Statement, Portfolio Additional Estimates Statement or other portfolio estimates statement that was prepared for the entity for the period, include details of variation and reasons for change.	If applicable, Mandatory	N/A

PGPA Rule reference	Description	Requirement	Part of report
17AD(c)	Report on the Performance of the entity		
	<i>Annual performance statements</i>		
17AD(c)(i); 16F	Annual performance statement in accordance with paragraph 39(1)(b) of the Act and section 16F of the Rule.	Mandatory	21–76
17AD(c)(ii)	<i>Report on financial performance</i>		
17AF(1)(a)	A discussion and analysis of the entity's financial performance.	Mandatory	87–125
17AF(1)(b)	A table summarising the total resources and total payments of the entity.	Mandatory	128–129
17AF(2)	If there may be significant changes in the financial results during or after the previous or current reporting period, information on those changes, including: the cause of any operating loss of the entity; how the entity has responded to the loss and the actions that have been taken in relation to the loss; and any matter or circumstances that it can reasonably be anticipated will have a significant impact on the entity's future operation or financial results.	If applicable, mandatory	87–125 128–129
17AD(d)	Management and accountability		
	<i>Corporate governance</i>		
17AG(2)(a)	Information on compliance with section 10 (fraud systems).	Mandatory	79
17AG(2)(b)(i)	A certification by accountable authority that fraud risk assessments and fraud control plans have been prepared.	Mandatory	1
17AG(2)(b)(ii)	A certification by accountable authority that appropriate mechanisms for preventing, detecting incidents of, investigating or otherwise dealing with, and recording or reporting fraud that meet the specific needs of the entity are in place.	Mandatory	1
17AG(2)(b)(iii)	A certification by accountable authority that all reasonable measures have been taken to deal appropriately with fraud relating to the entity.	Mandatory	1
17AG(2)(c)	An outline of structures and processes in place for the entity to implement principles and objectives of corporate governance.	Mandatory	78
17AG(2)(d) – (e)	A statement of significant issues reported to Minister under paragraph 19(1)(e) of the Act that relates to non-compliance with Finance law and action taken to remedy non-compliance.	If applicable, mandatory	N/A
	<i>Audit committee</i>		
17AG(2A)(a)	A direct electronic address of the charter determining the functions of the entity's audit committee.	Mandatory	79
17AG(2A)(b)	The name of each member of the entity's audit committee.	Mandatory	80
17AG(2A)(c)	The qualifications, knowledge, skills or experience of each member of the entity's audit committee.	Mandatory	80
17AG(2A)(d)	Information about the attendance of each member of the entity's audit committee at committee meetings.	Mandatory	80
17AG(2A)(e)	The remuneration of each member of the entity's audit committee.	Mandatory	80

PGPA Rule reference	Description	Requirement	Part of report
<i>External scrutiny</i>			
17AG(3)	Information on the most significant developments in external scrutiny and the entity's response to the scrutiny.	Mandatory	N/A
17AG(3)(a)	Information on judicial decisions and decisions of administrative tribunals and by the Australian Information Commissioner that may have a significant effect on the operations of the entity.	If applicable, mandatory	N/A
17AG(3)(b)	Information on any reports on operations of the entity by the Auditor-General (other than report under section 43 of the Act), a Parliamentary Committee, or the Commonwealth Ombudsman.	If applicable, mandatory	N/A
17AG(3)(c)	Information on any capability reviews on the entity that were released during the period.	If applicable, mandatory	N/A
<i>Management of human resources</i>			
17AG(4)(a)	An assessment of the entity's effectiveness in managing and developing employees to achieve entity objectives.	Mandatory	81–84
17AG(4)(aa)	Statistics on the entity's employees on an ongoing and non-ongoing basis, including the following: (a) statistics on full-time employees; (b) statistics on part-time employees; (c) statistics on gender; (d) statistics on staff location.	Mandatory	82
17AG(4)(b)	Statistics on the entity's APS employees on an ongoing and non-ongoing basis; including the following: • Statistics on staffing classification level; • Statistics on full-time employees; • Statistics on part-time employees; • Statistics on gender; • Statistics on staff location; • Statistics on employees who identify as Indigenous.	Mandatory	82
17AG(4)(c)	Information on any enterprise agreements, individual flexibility arrangements, Australian workplace agreements, common law contracts and determinations under subsection 24(1) of the <i>Public Service Act 1999</i> .	Mandatory	84
17AG(4)(c)(i)	Information on the number of SES and non-SES employees covered by agreements etc identified in paragraph 17AG(4)(c).	Mandatory	84
17AG(4)(c)(ii)	The salary ranges available for APS employees by classification level.	Mandatory	82
17AG(4)(c)(iii)	A description of non-salary benefits provided to employees.	Mandatory	83–84
17AG(4)(d)(i)	Information on the number of employees at each classification level who received performance pay.	If applicable, mandatory	N/A
17AG(4)(d)(ii)	Information on aggregate amounts of performance pay at each classification level.	If applicable, mandatory	N/A
17AG(4)(d)(iii)	Information on the average amount of performance payment, and range of such payments, at each classification level.	If applicable, mandatory	N/A
17AG(4)(d)(iv)	Information on aggregate amount of performance payments.	If applicable, mandatory	N/A

PGPA Rule reference	Description	Requirement	Part of report
<i>Assets management</i>			
17AG(5)	An assessment of effectiveness of assets management where asset management is a significant part of the entity's activities.	If applicable, mandatory	N/A
<i>Purchasing</i>			
17AG(6)	An assessment of entity performance against the <i>Commonwealth Procurement Rules</i> .	Mandatory	85
<i>Consultants</i>			
17AG(7)(a)	A summary statement detailing the number of new contracts engaging consultants entered into during the period; the total actual expenditure on all new consultancy contracts entered into during the period (inclusive of GST); the number of ongoing consultancy contracts that were entered into during a previous reporting period; and the total actual expenditure in the reporting year on the ongoing consultancy contracts (inclusive of GST).	Mandatory	85
17AG(7)(b)	A statement that <i>"During [reporting period], [specified number] new consultancy contracts were entered into involving total actual expenditure of \$[specified million]. In addition, [specified number] ongoing consultancy contracts were active during the period, involving total actual expenditure of \$[specified million]"</i>	Mandatory	86
17AG(7)(c)	A summary of the policies and procedures for selecting and engaging consultants and the main categories of purposes for which consultants were selected and engaged.	Mandatory	85
17AG(7)(d)	A statement that <i>"Annual reports contain information about actual expenditure on contracts for consultancies. Information on the value of contracts and consultancies is available on the AusTender website."</i>	Mandatory	85
<i>Australian National Audit Office access clauses</i>			
17AG(8)	If an entity entered into a contract with a value of more than \$100 000 (inclusive of GST) and the contract did not provide the Auditor-General with access to the contractor's premises, the report must include the name of the contractor, purpose and value of the contract, and the reason why a clause allowing access was not included in the contract.	If applicable, mandatory	N/A
<i>Exempt contracts</i>			
17AG(9)	If an entity entered into a contract or there is a standing offer with a value greater than \$10 000 (inclusive of GST) which has been exempted from being published in AusTender because it would disclose exempt matters under the FOI Act, the annual report must include a statement that the contract or standing offer has been exempted, and the value of the contract or standing offer, to the extent that doing so does not disclose the exempt matters.	If applicable, mandatory	N/A

PGPA Rule reference	Description	Requirement	Part of report
<i>Small business</i>			
17AG(10)(a)	A statement that “[Name of entity] supports small business participation in the Commonwealth Government procurement market. Small and Medium Enterprises (SME) and Small Enterprise participation statistics are available on the Department of Finance’s website.”	Mandatory	85
17AG(10)(b)	An outline of the ways in which the procurement practices of the entity support small and medium enterprises.	Mandatory	85
17AG(10)(c)	If the entity is considered by the Department administered by the Finance Minister as material in nature—a statement that “[Name of entity] recognises the importance of ensuring that small businesses are paid on time. The results of the Survey of Australian Government Payments to Small Business are available on the Treasury’s website.”	If applicable, mandatory	85
<i>Financial statements</i>			
17AD(e)	Inclusion of the annual financial statements in accordance with subsection 43(4) of the Act.	Mandatory	87–125
<i>Executive remuneration</i>			
17AD(da)	Information about executive remuneration in accordance with Subdivision C of Division 3A of Part 2-3 of the Rule.	Mandatory	130–131
17AD(f)	<i>Other mandatory information</i>		
17AH(1)(a)(i)	If the entity conducted advertising campaigns, a statement that “During [reporting period], the [name of entity] conducted the following advertising campaigns: [name of advertising campaigns undertaken]. Further information on those advertising campaigns is available at [address of entity’s website] and in the reports on Australian Government advertising prepared by the Department of Finance. Those reports are available on the Department of Finance’s website.”	If applicable, mandatory	86
17AH(1)(a)(ii)	If the entity did not conduct advertising campaigns, a statement to that effect.	If applicable, Mandatory	N/A
17AH(1)(b)	A statement that “Information on grants awarded by [name of entity] during [reporting period] is available at [address of entity’s website].”	If applicable, mandatory	N/A
17AH(1)(c)	Outline of mechanisms of disability reporting, including reference to website for further information.	Mandatory	86
17AH(1)(d)	Website reference to where the entity’s Information Publication Scheme statement pursuant to Part II of FOI Act can be found.	Mandatory	86
17AH(1)(e)	Correction of material errors in previous annual report.	If applicable, mandatory	165
17AH(2)	Information required by other legislation.	Mandatory	134–161

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Australian Government

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Information Commissioner**

OAIC Annual Report 2019–20

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